



# VOICE OF REASON

The Newsletter of Americans for Religious Liberty

2005, No. 2 [91]

## Attacks on Independent Judiciary Mount

The Republican leadership in Congress, the White House, and the Religious Right have targeted a basic American institution, an independent judiciary, for extinction. Showing that they are instinctively radical, not conservative in the truest sense of that much maligned word, the American Right today has made the federal court system, and its methods, the primary target in their campaign to restructure American life and culture.

Republican spokespersons have labeled the judiciary "out of control" because most federal courts have sought to uphold basic principles of religious neutrality on the part of government. Now the latest propaganda thrust by religious and social conservatives (or pseudo-conservatives, as they ought to be called) is to label opponents of President Bush's more extreme judicial choices enemies of "people of faith." This outrageous posturing threatens to poison even more the already miasmatic atmosphere between the parties and to up the ante on partisanship and mean spiritedness, and to stoke the flames of religious strife, all to advance their political objectives and to keep this administration in power.

Senate Majority Leader Bill Frist (R-TN) has lent his name to the campaign by addressing a nationally-televised rally from Highview Baptist Church in Louisville, Kentucky, which used evangelical Christians to inundate wavering Republican senators with demands that they support the abolition of the filibuster. The filibuster, which admittedly was used by recalcitrant Southern segregationists to delay the passage of civil rights legislation four decades ago, is still considered an acceptable last-ditch method to derail majoritarian overreach. Republicans themselves used it to stop Abe Fortas's nomination for Chief Justice in the 1960s. Not for nothing is this called the "nuclear option" because it could fracture once and for all any hope of nonpartisanship in the US Senate.

The rhetoric from the Religious Right has been apocalyptic and threatening to interfaith harmony in a nation already sharply divided on religious and political issues. No wonder an ABC/*Washington Post* poll released April 26 showed Americans opposed to the filibuster's abolition by 66% to 26%. Independents and moderates joined Democrats and liberals in overwhelming opposition, while substantial numbers of rank and file Republicans also opposed the proposal.

The so-called "Justice Sunday" gathering in Louisville brought James Dobson, Charles Colson, and Al Mohler (president of Southern Baptist Theological Seminary) together to accuse Democrats of "a filibuster against people of faith." Dobson denounced the Supreme Court for inaugurating the "greatest Holocaust in history" by "legalizing abortion and killing 44 million Americans." Tony Perkins, president of the Family Research Council and organizer of the televised event, said, "The courts have become the last bastion of the liberal, anti-Christian dogma of the left. Activist courts, aided by liberal interest groups like the ACLU, have been quietly working under the veil of the judiciary, like

thieves in the night, to rob us of our Christian heritage and our religious freedoms."

Democrats and many religious leaders were quick to respond. "No party has a monopoly on faith," said Senator Charles E. Schumer (D-NY), adding, "For Senator Frist to participate in this kind of telecast just throws more oil on the partisan flames." Senator Frist's hometown newspaper, *The Nashville Tennessean*, denounced him for injecting religion into a political debate. "Couching this debate in religious terms should be insulting to lawmakers on both sides of the aisle. Personal faith should not be defined by political affiliation . . . The fray should stay in the political arena. The issue is not about who believes in God and who doesn't," wrote the editors in the April 19 edition.

National Council of Churches General Secretary Bob Edgar denounced the effort to portray opponents of changing the filibuster as enemies of religious faith. The Rev. Clifton Kirkpatrick, a top official of Frist's Presbyterian Church, said, "One of the hallmarks of our denomination is that we are an ecumenical church. Elected officials should not be portraying public policy as being for or against people of faith." Edgar, a Methodist minister and former Pennsylvania congressman, added, "To say that some group of Christians has a monopoly on the ear of God is especially an outrage to Presbyterians."

Other important voices were heard. The Interfaith Alliance delivered a petition to the Senate signed by 406 clergy urging Frist to "defend the nation from efforts utilizing deception and fear-mongering to manipulate Americans of faith." People For the American Way president Ralph Neas said, "It is false and inflammatory to suggest that

*continued on page 2*

### *In This Issue:*

**Attacks on Independent Judiciary Mount . . . UN Urges Human Cloning Ban . . . Nineteen States Face Evolution Debates . . . Anti-Abortion Measure Heads to Senate . . . Bush Justice Department Supports Religious Right . . . A Bitter Pill for Pharmacists . . . Religiously Obeying the Establishment Clause . . . Air Force Academy Hit for Religious Bias . . . Church and State in the Courts . . . The Voucher Watch . . . An Independent Judiciary . . . Pope Benedict XVI . . . Update . . . Books and Culture**

supporters of the Senate's checks and balances are trying to keep people of faith off the courts or to silence conservative Christians or deny them the right to participate in public life." *New York Times* columnist Frank Rich labeled Justice Sunday "a high tech lynching in prime time." In a hard-hitting editorial, "Bill Frist's Religious War," *The New York Times* said on April 16:

"Right-wing Christian groups and the Republican politicians they bankroll have done much since the last election to impose their particular religious views on all Americans. But nothing comes close to the shameful declaration of religious war by Bill Frist, the Senate majority leader, over the selection of judges for federal courts.

"Senator Frist is to appear on a telecast sponsored by the Family Research Council, which styles itself a religious organization but is really just another Washington lobbying concern. The message is that the Democrats who oppose a tiny handful of President Bush's judicial nominations are conducting an assault 'against people of faith.' By that, Senator Frist and his allies do not mean people of all faiths, only those of their faith.

"It is one thing when private groups foment this kind of intolerance. It is another thing entirely when it's done by the highest-ranking member of the United States Senate, who swore on the Bible to uphold a Constitution that forbids the imposition of religious views on Americans. Unfortunately, Senator Frist and his allies are willing to break down the rules to push through their agenda – in this case, by creating what the senator knows is a false connection between religion and the debate about judges. . . .

"We fully understand that a powerful branch of the Republican Party believes that the last election was won on 'moral values.' Even if that were true, that's a far cry from voting for one religion to dominate the entire country. President Bush owes it to Americans to stand up and say so."

The injection of a religious issue into what otherwise might be seen as a procedural question relating to checks and balances in the legislative branch has turned bitter. Many evangelicals openly attacked Colorado Senator Ken Salazar, a Hispanic Catholic Democrat, for tolerating and abetting anti-Catholicism because he has opposed some of Bush's federal court nominees who happened to be Catholic. Salazar hit back on April 21, castigating Albert Mohler Jr., president of the Southern Baptist Theological Seminary. Salazar quoted Mohler's statement that "the Roman Church is a false church and teaches a false gospel." Mohler acknowledged having made the statement but called Salazar's statement "absolutely ridiculous." Salazar said that Mohler is the real anti-Catholic.

*Apart from confirming an unwholesome disrespect for traditional American values like checks and balances, the assault on judges is part of a wide-ranging and successful Republican campaign to breach the wall between church and state to advance a particular brand of religion. No theoretical exercise, the program is having a corrosive effect on policymaking and the lives of Americans.*

— An excerpt from the editorial "The Disappearing Wall," *The New York Times*, April 26, 2005.

Another Catholic Democrat, Senator Patrick Leahy of Vermont, told his colleagues on April 22, "Dividing the American people along religious lines is wrong. Smearing political opponents as 'anti-faith' is despicable. Apparently some will stop at nothing and stoop to any level. No scurrilous charge is too coarse. No baseless accusation is too outlandish."

Leahy continued: "I thank the many religious leaders who have come forward this week to uphold America's great traditions of respecting faith, honoring faith and, ensuring that the constitutional prohibition against any religious test for public office be strictly observed. Christian leaders from a variety of denominations, Muslim leaders and Jewish leaders have joined together to reject these disgraceful efforts of a few partisans injecting religion in the discussion of judicial nominations. They have publicly denounced the efforts of the religious demagogues making slanderous charges in a win-at-all-costs bid to rile the passions and further divide Americans from one another. I am grateful for their voices. We need less division, not more. We need to work together more, not less."

He concluded: "This kind of religious smear campaign hurts the whole country. It hurts Christians and non-Christians. It hurts all of us, because the Constitution requires judges to apply the law, not their personal views. Remember that all of us, no matter what our faith – and I am proud of mine – are able to practice our religion as we choose or not to practice a religion. That is a fundamental guarantee of our Constitution. The Constitution's prohibition against a 'religious test' in Article VI is consistent with that fundamental freedom.

"All Americans should understand that the Constitution is there to protect us, and it is the protection of the Constitution that has allowed this country to evolve into a tolerant nation. Those who would try to drag us back into religious intolerance, for short-term political gain, subvert the Constitution, and damage the country."

*Voice of Reason* is the quarterly newsletter of Americans for Religious Liberty, PO Box 6656, Silver Spring, MD 20916 (telephone 301-260-2988; fax 301-260-2989); e-mail: arlinc@erols.com; website: www.arlinc.org). The newsletter is sent to all contributors to ARL.

Senior Editor: Edd Doerr  
Editor: Albert J. Menendez  
Production Editor: Teri Grimwood  
Canadian Correspondent: John Clubine

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 \$25 for individuals, \$35 for families, \$15 for students and limited income.

**Board of Directors:** Burton Caine, *Chair*; Herb Blinder; Louise Gallun;

George Kaplan; Susan Nogan; John Nugent; Michael Prival.

**National Advisory Board:** M. David Alexander; Francisco Ayala; Rev. Charles Bergstrom; Walter Breuggeman; Rev. John Buehrens; Bob Chase; Joseph Chuman; William Sloane Coffin; Denise Davidoff; Norman Dorsen; Niles Eldredge; Edward L. Ericson; Joseph Fahey; Rev. Carl Flemister; Keith Geiger; Laurie Godfrey; Morris Goodman; Rev. Donald S. Harrington; Frances Kissling; Paul Kurtz; Rev. James Lawson; Rev. Barry Lynn; James T. McCollum; Rev. Jack Mendelsohn; Rev. O. Eugene Pickett; Alan Powell; Howard Radest; Rosemary Ruether; Rev. William F. Schulz; Eugenie Scott; Lynn Silverberg-Master; Rev. Bruce Southworth; Rev. A. Knighton Stanley; Philippa Strum; Ruti Teitel; Sister Margaret Traxler; Rev. David D. Van Strien; Edward O. Wilson; Rabbi Sherwin T. Wine; Walter Wink.

Edd Doerr, *President*  
Albert J. Menendez, *Research Director*

# UN Urges Ban on Human Cloning

A March 8 vote by the United Nations General Assembly urged governments to ban all human cloning, including the cloning of human embryos for stem-cell research. The non-binding statement was passed 84-34, with 37 abstentions and 36 members absent. While the vote was one-sided, the measure was supported by only 44% of UN members, reflecting the unusual number of abstentions and absentees.

The U.S. supported the ban, and Reuters News Agency reported, "The United States did not play a public role in promoting the statement. But it had worked behind the scenes, hand in hand with U.S. pro-life groups, to obtain a call for a blanket ban on all cloning."

The U.S. Conference of Catholic Bishops praised the vote as "a powerful statement in favor of the dignity and inviolability of human life." Predominantly Catholic countries were generally in favor of the ban, though Belgium, Brazil, the Czech Republic, France, Lithuania and Spain voted no. Many Muslim nations abstained, though Saudi Arabia voted yes. Speaking for the minority of opponents, British Ambassador Emlyn Jones Parry lamented "the intransigence of those who were not prepared to recognize that other sovereign states – after extensive dialogue and due democratic process – may decide to permit strictly controlled applications of therapeutic cloning."

The vote did not reflect traditional alliances. The United States voted for the ban, while the United Kingdom and Canada voted against it. Australia voted yes but New Zealand voted no. Both North Korea and South Korea opposed the ban. So did all seven Lutheran European nations (Denmark, Norway, Sweden, Finland, Iceland, Latvia and Estonia), though those votes may reflect the secularization of Northern Europe more than residual Lutheran influences. Portugal voted in favor but its Iberian neighbor Spain cast a no vote. China voted no while Russia was absent. Bitter enemies Iran, Israel and Jordan abstained. India voted no while Pakistan abstained. There was majority support, of all votes cast, for the ban only in the Americas; a majority of African nations either abstained or were absent.

# Nineteen States Face Evolution Debates

At least 19 states face legislative or administrative fights over the teaching of evolution in public school science classes. Anti-evolution language was stripped from a bill in South Carolina, an equal time for creation science bill died in committee in Mississippi, and the Beebe School District in Arkansas agreed to remove anti-evolution warning labels from its science textbooks.

But in Kansas the state Board of Education still intends to revise teaching standards. Creationists, led by Wichita Southern Baptist pastor Terry Fox, are pressing their demands at hearings. Fox, pastor of the largest Southern Baptist church in the Midwest, told supporters, "If you can cause enough doubt on evolution, liberalism will die." He added, "Creationism's going to be our big battle. We're hoping Kansas will be the model and we're in it for the long haul." Fox's allies have had some success in other states. Alabama and Georgia legislators introduced bills that will allow (or encourage?) teachers to challenge evolution in the classroom. Ohio, Minnesota, and New Mexico already allow that. A Tennessee county is considering requiring the affixing of evolution disclaimers in textbooks.

The National Science Teachers Association surveyed 1,050 of its members and found that 31% said they felt pressured to teach creationism, Intelligent Design or other unscientific alternatives. Of those teachers, 22% said the pressure came from students, 20% from parents and only 5% from administrators of principals.

The *National Catholic Reporter* on March 5 cited a December 6, 2004, letter sent to all U.S. bishops by Bishop Francis X. DiLorenzo of Richmond. Bishop DiLorenzo said, "The Church does not need to fear the teaching of evolution as long as it's understood as an scientific account of the physical origins and development of the universe." DiLorenzo added, "Assured that scientific truth and religious truth cannot be in conflict, Catholic schools should continue teaching evolution as a scientific theory backed by convincing evidence."

Four days of hearings began in Kansas on May 5, though Kansas Citizens for Science boycotted the event. Its vice president, Jack Krebs, explained, "They have created a straw man. They are trying to make science stand for atheism so they can fight atheism." The hearings were convened by the conservative-dominated Kansas State Board of Education to determine whether Kansas public school students should be required to learn "Creationism" and "Intelligent Design" along with the long-established and presumably settled evolutionary theory in science classes.

The Seattle-based Discovery Institute, headquarters of the I.D. movement, sent several representatives to the hearings. One of its fellows, Jonathan Wells, admitted that he was a member of Rev. Sun Myung Moon's Unification Church. Wells said, "Father's [Moon's] words, my studies and my prayers convinced me that I should devote my life to destroying Darwinism." Wells called himself "an embryologist, a theologian, and an old Berkeley antiwar radical."

In Michigan, the Thomas More Law Center of Ann Arbor has threatened to sue Gull Lake Community Schools unless two middle school science teachers are "allowed" to teach "Intelligent Design" in their classes. For the past two years, teachers Dawn Wendzel and Julie Olson have included the largely-discredited Intelligent Design theory along with Darwinian evolution in their seventh-grade classes. The district superintendent has ordered them to terminate this for the coming school year. The Thomas More Center is also supporting the Dover, Pennsylvania school district's fostering of the Intelligent Design theory.

## The UN Vote on Cloning

<i>Geographic Area</i>	<i>Yes</i>	<i>No</i>	<i>Abstain</i>	<i>Absent</i>
Europe	19	18	4	2
The Americas*	22	4	5	4
Africa	22	1	11	18
Asia-Oceania**	21	11	17	12
<i>Predominant National Religion</i>	<i>Yes</i>	<i>No</i>	<i>Abstain</i>	<i>Absent</i>
Roman Catholic	36	7	4	4
Protestant	3	10	3	4
Eastern Orthodox	2	3	4	3
Mixed Christian	13	4	1	3
Jewish	0	0	1	0
Muslim	18	0	15	9
Buddhist/Shinto/Hindu	1	5	4	2
Mixed***	11	5	5	11

\*Includes North America, South America, Central America and the Caribbean

\*\* Includes the Middle East

\*\*\*Mixed means that no religion is dominant. Suriname, for example, is 27% Hindu, 25% Protestant, 23% Catholic and 20% Muslim.

## A Bitter Pill for Pharmacists

The church-state wars have spilled over into neighborhood pharmacies. Georgia has now joined Arkansas, Louisiana and South Dakota with laws that allow pharmacists to refuse to fill a prescription if the pharmacist has moral or religious objections to it. As a practical matter, such refusals almost always involve contraceptives or morning-after pills that some regard as abortifacients. A dozen other state legislatures, including Tennessee, Texas and Indiana, are debating “conscience clauses” that would allow pharmacists to refuse to dispense contraceptives. In Arizona, Governor Janet Napolitano vetoed a similar bill in April.

Supporters of freedom of choice are fighting back. Illinois Governor Rod Blagojevich ordered pharmacies to fill all prescriptions written for women by their physicians. The April emergency rule was issued after complaints from several women that a Chicago pharmacist refused to fill morning-after pill prescriptions. The Governor is seeking to make his rule permanent, but anti-choice pharmacists and the Republican leader of the state senate, Frank Watson, are fighting his directive. “This is going to be a huge national issue in the future,” claimed Paul Caprio, director of Family-PAC, a conservative lobbying group that urged Illinois pharmacists to ignore the governor’s directive. Three pharmacists filed suit against the governor on April 15.

Some states are beginning to fight this trend. Bills have been filed in California, Missouri and New Jersey to require pharmacies to fill any legal prescription.

In some states, including California and West Virginia, bills have been proposed on both sides of the dispute. The American Pharmacists Association, which represents 52,000 pharmacists, is trying for a compromise. It would allow members who are conscience-bound to refuse to fill certain prescriptions only if they refer the patient to another pharmacy or give the prescription to a colleague in the same pharmacy. In the U.S. Senate, John Kerry (D-MA) and Rick Santorum (R-PA) have introduced legislation along these lines. Some see this as an additional burden on the patient, one that intervenes in the doctor-patient relationship. The Congress is also seeing movement on the issue, but Republican domination makes pro-choice legislation unlikely to pass.

California, Alaska, Hawaii, Maine, New Mexico and Washington have laws that allow dispensation of emergency contraceptives, particularly for over the counter sales of Plan B, if pharmacists are certified by the state and work in collaboration with doctors. New York, Massachusetts and eight other states are considering similar legislation.

In a related issue, hospitals are required to make emergency contraception to rape victims upon request in New Jersey, with legislation pending in Texas, Arizona, Minnesota, Wisconsin, Missouri, Tennessee, Pennsylvania and Massachusetts. In Colorado Governor Bill Owen vetoed a bill in April, claiming that it would “violate the moral or religious beliefs” of Catholic hospitals.

### Hans Bethe, 1906-2005

Nobel laureate Hans Bethe, one of the 20<sup>th</sup> century’s greatest physicists and a key figure in the development of the first nuclear bomb, died at his home in Ithaca, New York on March 6.

Like biologist Ernst Mayr who died at the age of 100 in February, Dr. Bethe was a member and supporter of Americans for Religious Liberty since the 1980s, as were such other eminent scientists as Isaac Asimov, Carl Sagan, Stephen Jay Gould, and Alfred McClung Lee.

Both Bethe and Mayr were Germans who left their native country because of the rise to power of the Nazis.



## Bush Justice Department Supports Religious Right

The U.S. Justice Department’s newly-established (as of 2002) “religious-rights unit” is siding more and more with the political Religious Right values and interpretations of public law. The unit is headed by Eric Treene, former litigation director of the Becket Fund for Religious Liberty, which favors vouchers and supports a maximal view of religious group participation in publicly-funded programs. Treene is called the special counsel for religious rights.

An example of the unit’s perspective is support for the Salvation Army in a suit brought last year in New York by employees who said they were being required to profess evangelical Christianity to keep their jobs. The Justice Department’s support for the employer has caused considerable comment. Richard B. Schmitt observed on March 7 in the *Los Angeles Times*, “Defending the right of an employer using public funds to discriminate is one of the more provocative steps taken by a little known arm of the civil rights division and its special counsel for religious discrimination. The special counsel has intervened in an array of religious disputes. Critics say there is a fine line between promoting religious rights and promoting religion, especially in light of the constitutional requirement that the government maintain strict neutrality when it comes to religious activities.”

While the religious rights unit has received plaudits for intervening on behalf of religious minorities in clear cases of religious discrimination, some of its activities have triggered criticism from religious liberty specialists. Marc Stern of the American Jewish Congress criticized Justice after it intervened in three lawsuits supporting the Child Evangelism Fellowship’s missionary activities in public schools. He said, “This is not the equivalent of the Southern resistance to the black vote that you need to have the Justice Department pursuing it.”

Justice has shown a distinct preference for intervening in cases already brought by Religious Right legal groups. At least six investigations by Justice were triggered by complaints filed by the Liberty Legal Institute in Texas.

The Salvation Army case is particularly troublesome. In 2003 the Army began requiring employees to divulge personal information about their religious affiliation, including names of their churches and ministers. A new mission statement for the Social Services for Children division said the primary goal was “to preach the gospel of Jesus Christ and to serve human needs in His name without discrimination.” The previous mission statement said the service organization existed “to empower each person who enters our doors to live with dignity and hope.” A dozen veteran social workers filed suit against the Army. Eventually, 18 current and former employees joined the suit filed in federal court in New York City. One employee, Anne Lown, the second highest staffer for 24 years, resigned because of the “illegal infusion of religion” and now works for Catholic Charities of New York. A Lutheran minister and longtime executive director of the social services program was ousted. One plaintiff, Mary Jane Dessables, is a Presbyterian elder.

The Salvation Army has moved to dismiss the case, claiming that as a private, nonprofit religious organization, it is exempt from New York anti-discrimination laws. The Justice Department supported that position last August and even claimed that the employees’ discrimination claims were “irrelevant.”

This additional weight of the U.S. government tends to skew the debate, even though the central legal question remain unresolved. As Richard Schmitt noted, “Although the Civil Rights Act of 1964 preserves the right of religious organizations to discriminate in hiring, it does not address the question of whether that applies to groups that accept public funds. That issue has not been legally resolved.”

# Anti-Abortion Measure Heads to Senate

The U.S. House of Representatives on April 27 overwhelmingly passed a bill that makes it a federal crime for doctors or other adults to help women under 18 evade parental notification laws by crossing state lines to obtain an abortion. The bill, called the Child Interstate Abortion Notification Act, passed by a vote of 270-157. It was supported by 92.2% of Republicans (216-11), and 27.1% of Democrats (54-145). One Independent voted no. The bill creates two new federal crimes, each of which can result in a one-year jail sentence, a \$100,000 fine or both. One section of the bill covers the transportation of a minor across state lines, while the second section requires the abortion provider to notify a parent or legal guardian if the state has a parental notification or parental permission law. An exception waives the requirements if the abortion is required to save the life of the woman or if she is a victim of abuse. The House passed similar bills in 1998, 1999 and 2002, but none has passed the Senate. The Senate is still expected to be a more difficult sell for the measure, and only 37 co-sponsors have signed on to a similar Senate bill.

Of the 54 Democratic defectors to the anti-abortion position, 25 were Catholics, including seven Latinos from Texas, California and Colorado, and one African-American (Clay of Missouri). There were 19 white Southern Protestants, including all white Protestants from Arkansas, Kentucky, Oklahoma, South Carolina, Tennessee and West Virginia. (Four of the five Catholic Democrats from Pennsylvania voted for the bill). Five African Americans joined the defectors as did two of the three Mormon Democrats in the House. A majority of all religious groups except Jews voted for the measure.

Regionally, 31 of the 54 Democratic supporters of the bill came from the South or Border South. Of the 11 Republican defectors who opposed the bill, eight were from the North or West, including all three from Connecticut, and three from the South or Border South, mainly from Delaware and Maryland. The only Republican in the Deep South to vote against his party was the unpredictable Texan Ron Paul, whose libertarian views often put him at odds with today's GOP on social and moral issues. Three Episcopalian and three Catholic Republicans bucked their party on this issue along with a few liberal Protestants. No Baptist

*By a series of recent initiatives, Republicans have transformed our party into the political arm of conservative Christians.*

— John Danforth, former Republican Senator from Missouri, U.S. ambassador to the UN, and an ordained Episcopal priest, writing in *The New York Times*, March 30, 2005.

or Presbyterian Republicans – and very few Democratic ones either – voted on the pro-choice side of this issue.

## Regional Vote to Make It a Crime to Cross States Lines for an Abortion

	Yes	No	% Yes
South	104	22	82.5
Rocky Mountain	21	6	77.8
Border South	22	10	68.8
Midwest	62	29	68.1
Middle Atlantic	30	30	50.0
Pacific	28	41	40.6
New England	3	19	13.6
All	270	157	63.2

President Bush urged the Senate to take action and pass a version of the House bill. Senate Republicans announced in January that the measure is one of their top priorities during this session of Congress. Passage would be a major victory for the Religious Right. Tony Perkins, president of the Family Research Council, called the bill one of his group's most important priorities.

In a related story, Kansas Governor Kathleen Sebelius vetoed a bill designed to impose more state regulations on abortion clinics. The House vote was 82-42, just two votes short of the minimum needed to send the bill to the state senate.

## Values and Politics

Should values be important in an election? Yes, by all means. But, which values? The values that should be important in an election are those that promote the common good, that strengthen democracy, that nurture integrity regarding our corporate pursuit of the American dream and our individual truth-telling about how we are doing in that endeavor. Which values should be legislated? Values that should be legislated are values that advance the common good, not those that seek to establish the sectarian morality of one particular religious or political group in the nation; values that allow all citizens, not just a few, to experience the blessings of democracy, and values that strengthen rather than threaten our national commitment to religious freedom – the free exercise of religion for all people up to the point that one person's free exercise infringes on or denies another person's freedom and the assurance of no establishment of religion in appearance as well as in law, subtly or explicitly.

Well, so much for religion and values. Now a final word about

politics. I am both stunned and amused by the present preoccupation with talking about religion that is pervading political discussions across our city. But I am also worried. . . .

Listen carefully to rhetoric laced with a religious vocabulary. Verbal harangues that sow the seeds of mistrust and create divisions, comments from people who demonize all who differ from them, and calls to use the machinery of government to advance a particular religious ideology or sectarian morality are not consistent with either the articulation of religion in the scriptures and traditions of religion in this nation or with the rhetoric of democracy resident in our most fundamental, national historic documents.

— Excerpts from an address by Rev. C. Welton Gaddy, president of the Interfaith Alliance and the Interfaith Alliance Foundation, Woman's National Democratic Club, February 22, 2005, Washington, DC.

---

# Religiously Obeying the Establishment Clause

By Burton Caine

*Dr. Caine, ARL Board Chair, is Professor of Law at Temple University School of Law and past President of the ACLU-Philadelphia). He reports on two lectures he recently delivered to law students.*

I held up high for all to see the Holy Bible (King James Version), and I read from Exodus, Chapter 20, Verse 1:

And God spake all these words, saying,

2. I am the Lord thy God, which have brought thee out of the land of Egypt, out of the house of bondage.

Is this not *religious*? I asked. I continued reading:

3. Thou shalt have no other gods before me.

4. Thou shalt not make unto thee any graven image, or any likeness of anything. . . . Not *religious*? I asked again. Continuing, I read:

5. Thou shalt not bow down thyself to them, nor serve them: for I the Lord thy God am a jealous God, visiting the iniquity of the fathers upon the children unto the third and fourth generation of them that hate me;

6. And shewing mercy unto thousands of them that love me and keep my commandments.

7. Thou shalt not take the name of the Lord thy God in vain; for the Lord will not hold him guiltless that taketh his name in vain.

8. Remember the sabbath day, to keep it holy.

Still not *religious*, I asked the *third time*? There hasn't been a *secular* commandment yet, I said. And for the next 13 lines in the *Holy Bible*, there still isn't! It isn't until Chap. 20, Verse 13, that anything appears which anyone could conceivably characterize as *secular*! And depending how you are counting, that may be the Sixth Commandment which reads, "Honor thy father and thy mother; that thy days may be long upon the land which the Lord thy God giveth thee."

It is no wonder, I said, that in the only case involving the Ten Commandments decided by the U.S. Supreme Court, this Biblical text was held to be *religious*. In *Stone v. Graham* (1980), the Court held that a state requirement that the Ten Commandments be posted in public school classrooms violated the establishment clause mandating the separation of church and state. Observing the obvious, the Court said that the Commandments are "undeniably a sacred text in the Jewish and Christian faiths," most of which "concerns the religious duties of believers; worshipping the Lord God alone, avoiding idolatry, not using the Lord's name in vain, and observing the Sabbath Day."

I argued that government posting the Ten Commandments on public property violates the First Amendment, but even more so when the Biblical text is censored to excise the words which make the text a

covenant between God and the Jewish People. Deleted from Verse 2 of the Biblical text are the words "*which have brought thee out of the land of Egypt, out of the house of bondage.*" (My emphasis). Exegetes emphasize the importance of the deleted phrase which was designed to link God's deliverance of the Jewish People from Egyptian slavery to the obligation of Jews in return to observe their religious duties to God. The monuments in litigation are bowdlerized for the purpose of converting the text of the Jewish People into Christian doctrine! Such religious preferentialism is the clearest violation the establishment clause.

The audience was clearly hostile, as I expected, since this was the Christian Legal Society featuring the American Center for Law and Justice, which litigates on behalf of opponents of the establishment clause. The American Civil Liberties Union was invited to present opposing argument and as Professor of Law specializing in the First Amendment religion clauses, I was asked to appear. I knew the odds but felt that since this Christian Legal Society was at the University of Pennsylvania Law School, law students would be open-minded.

My opponent, Francis J. Manion, Senior Counsel for ACLJ [American Center for Law and Justice], knew better. He was experienced in litigating Ten Commandments' cases throughout the country and was clearly at home with this audience. Although most Ten Commandments cases in the courts registered violations of the establishment clause, the arguments rejected there were winners in front of this audience. The Ten Commandments, he said, were not religious but formed the basis for American law, and were historic and moral. He emphasized that "the reasonable person" would not consider the Decalogue religious, etc., and the ACLU was known for taking positions on the religion clauses which Justice Goldberg characterized as "shadow, not substance." Moreover, he said, *Stone v. Graham* invited derision at the Supreme Court oral arguments recently on the case from Texas where a lower federal court permitted a Ten Commandments monument between the state Capitol and Supreme Court, and a second case from Kentucky which came to the opposite conclusion on essentially the same facts. Nothing new there!

To the contention that "a reasonable person" would not consider the Biblical passages religious, I quoted Dean Kathleen Sullivan that the concept itself violated the fundamental premise that the First Amendment protects the minority against what Tocqueville termed "the tyranny of the majority." Sullivan said that the "reasonable person" was from the majority, and likely to be Christian. It is like asking a jury of men, she said, to decide whether a rape victim put up sufficient resistance!

Apparently, sensing friendly reactions, my opponent added what could only be considered red meat to his hearers. He said that those offended by the Ten Commandments should "avert their eyes." That was the rule announced in a case involving a vulgar anti-war slogan, he claimed. Knowledgeable law students should have been offended by such misuse of legal precedent, but there was no such indication.

I countered that the reference was to *Cohen v. California*, a 1971 opinion by Justice Harlan. The case ruled that the First Amendment speech clause protected an anti-war slogan even if the language is offensive because criticizing the authorities is essential to freedom of speech and the government may never make it a crime. The case involves the individual's right to freedom of speech and nothing to do with the establishment clause, which prohibits the government from promoting religion.

Perhaps, at best, I succeeded in neutralizing that point but from other questions it was clear that I did little more. The group showed its

## Correction

In the list of deceased ARL National Advisory Board members in our last issue, we erroneously included Rev. Donald S. Harrington. Actually, Dr. Harrington, 90, is very much alive and well and living in Romania. We regret the error.

Dr. Harrington was very active on social justice issues in New York and in 1967 was much involved in the successful effort to block an attempt to change the state constitution to allow tax support for faith-based schools. He was then of great help to me in writing my 1968 book about the affair, *The Conspiracy That Failed*.

— Edd Doerr

religious bias and considered the establishment clause to be anti-religious. I explained that the religion clauses were not at all hostile to religion but were designed to protect both religion and government by keeping them apart. Religion has prospered in America under the separation principle and attendance at religious services is about the highest in the Western world. Religion prospers only when it attracts by reason of its ideas, not by the compulsion of the public fisc [treasury].

The audience reaction to the debate emphasized that the religious right feels that it is on the march and the establishment clause shall not stand in its way. One should not assume that the higher the level of education, the more effective will be an appeal to reason. And it may be that the Supreme Court will vote in favor of the religious right in its endeavors, including the Ten Commandments cases. Certainly the President is on that side.

Ten days later in the same room, I addressed the Jewish Law Students Conference on the same topic. The group included Orthodox Jews wearing black yarmulkes. I cited my law article chastising Ortho-

*When we talk religion and government, neither should become an instrument for the other.*

— Sen. Chuck Hagel (R-NE)

dox Jews for siding with the Christian right in undermining the establishment clause. Nevertheless, the reaction was friendly and enthusiastic.

From the two events so close together, I understood emotionally what I had known intellectually, namely, how vatic [prophetic] was the pronouncement of the Supreme Court in *Lemon v. Kurtzman* (1971) 403 U.S. 622 (also repeated in *Meek v. Pittinger*, 421 U.S. 374), that “political division along religious lines was one of the principal evils against which the First Amendment was intended to protect.”

## Air Force Academy Hit for Religious Bias

There have been 55 complaints of religious discrimination at the U.S. Air Force Academy in Colorado Springs during the past four years, according to an Associated Press report. AP said, “Evangelical Christians wield so much influence at the school that anti-Semitism or other forms of religious harassment have become pervasive.” The 4,300 student-school now requires staff members and cadets to take religious tolerance classes called “Respecting the Spiritual Values of All People” (RSVP). AP reported, “Critics of the academy say the sometimes-public endorsement of Christianity by high-ranking staff has contributed to a climate of fear and violates the constitutional separation of church and state at a taxpayer-supported school whose mission is to produce Air Force leaders.”

Among the complaints are that Academy commander Brigadier General Johnny Weida endorsed National Prayer Day in 2003, and that officer commission ceremonies have been held at off-campus churches. Weida said that the ceremonies would be held on campus in the future. Lt. General John Rosa, the superintendent, has conceded that problems have occurred and says they will be resolved. Rosa told AP that the cadets at the Air Force Academy include 2,600 Protestants, 1,300 Catholics, 120 Mormons, 44 Jews, 19 Buddhists and a few Muslims and Hindus. The Academy employs 15 Christian chaplains and one rabbi.

The Air Force, stung by criticism of Yale Divinity students, has created a task force that arrived on campus in May to probe the religious climate. Acting Air Force Secretary Michael Dominguez ordered a preliminary assessment by May 23.

In fall 2003, a survey by Yale Divinity School observers of the chaplaincy services found that 50% of cadets had heard religious slurs and insults directed at non-evangelicals. Unwanted proselytizing was rampant, and there was a perception that conservative Protestants, an estimated one-third of the student body, were favored over others. The RSVP program was initiated in 2004 as a result of the Yale team’s findings, and 1,500 of the 4,300 cadets have taken it.

The controversy was exacerbated on May 4 when Lutheran Air Force chaplain MeLinda Morton was fired, because she expressed agreement with the Yale report. Captain Morton said evangelicals dominated the chaplaincy, even though evangelicals, mainline Protestants and Catholics had roughly similar numbers of adherents on campus. Morton, who was executive officer of the 16 campus chaplains, told *The Washington Post*, “The evangelicals want to subvert the system. They have a very clear social and political agenda. The evangelical tone is pervasive at

the Academy, and it’s aimed at converting these young people who are under intense pressure anyway.” The Academy denied that Morton was fired but was “due for a transfer to Okinawa in July.” The daily *USA Today* first reported her dismissal. “They fired me,” said Morton, who was removed on May 4. She was particularly critical of a staff chaplain who told arriving freshmen last summer that “anyone not born again will burn in the fires of hell.”

Alumni have also led the barrage of criticism. Michael Weinstein, a White House attorney in the Reagan administration and an Air Force Academy graduate in 1977, has repeatedly complained about “religious pressure” against non-evangelical Christians, including his two sons. He said, “A colossal failure of leadership is resulting in a constitutional train wreck” at the tax-supported military training school.

Yale Professor Kristen Leslie agreed. She concluded, as a result of her on-campus investigation, “What we found was this very strong evangelical Christian voice just dominating. We thought that just didn’t make sense in light of their mission, which was to protect and train cadets, not to win religious converts.”

Weinstein, whose son is a sophomore at the Academy and has been called “a filthy Jew,” said the dispute was not between all Christians and Jews but “evangelicals versus everyone else.” “I am calling for congressional oversight and for the Academy to stop trivializing the problem by calling it nonsystemic. If they can’t fix it and Congress won’t fix it, the next thing to do is to go to federal court and file a lawsuit alleging a violation of the Constitution and civil rights.”

### *ARL in Action*

ARL President Edd Doerr addressed audiences at the student group Panim El Panim on February 21 and March 21 in Arlington, Virginia. He delivered a lecture at the New York Society for Ethical Culture, where ARL was officially started in 1981, on May 8. (Doerr’s New York speech is available on ARL’s website – [www.arlinc.org](http://www.arlinc.org)) On February 22 ARL was a co-sponsor, along with the Religious Coalition for Reproductive Choice, of a luncheon at the Woman’s National Democratic Club in Washington, DC. The speaker at that event was Dr. Welton Gaddy, director of the Interfaith Alliance.



# Church and State in the Courts

## The Ten Commandments: Oral Arguments

“It’s so hard to draw that line [between church and state],” observed Justice Sandra Day O’Connor during the March 2 oral arguments on the Ten Commandments cases. O’Connor expressed the frustration felt by several justices as they sought to determine whether Commandments monuments on public property can ever be constitutional and in what circumstances or surroundings they can be displayed.

In the first case argued, Duke University law professor Ervin Chemerinsky told the court that a granite monument of a Protestant version of the Commandments on the Texas State Capitol grounds clearly violated the Establishment Clause. By displaying a document in which “God is dictating to God’s followers rules for behavior,” the state makes outsiders of citizens with a different faith perspective, he told the Court. Justice Antonin Scalia responded with his usual “moral majoritarian” haughtiness when he said the monument is “a symbol of the fact that government derives its authority from God” and that the vast majority of Americans adhere to that view. Justice Anthony Kennedy, one of the two probable swing votes, seemed to concur. “If any atheist walks by he can avert his eyes,” he said. Kennedy also criticized an “obsessive concern with religion” among opponents of the Texas plaque. Opponents, including ARL, are seeking to overturn the ruling in favor of the display from a district court and the U.S. Court of Appeals for the Fifth Circuit.

The case for Texas was argued by Texas Attorney General Greg Abbott and acting U.S. Solicitor General Paul Clement, for the Bush Administration. (Clement was named to the post officially in March.)

“The Court and Religion,” excerpts from an editorial in *The New York Times*, March 2, 2005:

“Putting up displays of the Ten Commandments in government buildings has become a popular way to test the limits of the First Amendment. The displays’ backers, who will argue their case before the Supreme Court today, say they are not challenging the separation of church and state, just acknowledging God’s authority in a way the founding fathers would have appreciated. They’re wrong, and the court should order the displays removed.

...

“Accepting the separation of church and state does not mean that all references to religion must be excised from public life. The Supreme Court has long recognized that the government can display a religious symbol, provided it is part of a clearly secular display. The courtroom in which the Ten Commandments case will be argued has an image of Moses’ accepting the tablets as part of a montage of lawgivers throughout history. But the Kentucky and Texas displays fall far short of that standard.

“Adding the national anthem to the Kentucky displays or pointing to other statues in the distance in Texas cannot undo the displays’ clear motivation: tying the legal system to Protestantism. The wall between church and state dates proudly to the earliest days of the republic. The founders may not have anticipated a country with many Hindu and Buddhist Americans, but they were wise enough to write a document that protects their rights. Our increasingly diverse nation must not appear to prefer some religions, and some citizens, over others.”

In the oral argument on March 2, attorney Mathew Staver, defending the placement of Commandments on public property, said, “There’s clearly no evidence that the display [is] solely intended to be a religious display.” Staver added that the Decalogue contains “some statements about God – but very few.”

Justice Ruth Bader Ginsburg interjected, “Have you read the first four commandments? . . . It’s a powerful statement of the covenant that the Lord is making with his people.”

The plaintiff in the Texas case, Thomas Van Orden, received a great deal of press coverage because he is a homeless person who sleeps in a tent in an Austin neighborhood. A graduate of Southern Methodist University, Van Orden practiced criminal law in several Texas cities before his life veered out of control and his law license was suspended in 1999. He spends his days at the Texas State Law Library, and a number of observers say his original case presentations were outstanding, even if they did not convince the courts of the correctness of his position. Van Orden, who occasionally attends a Unitarian Universalist church in Austin, did not make the trip to Washington to hear the oral argument.

In the companion case, *McCreary County v. ACLU of Kentucky*, the displays of the Commandments at the court houses in the Kentucky counties (McCreary and Pulaski) were ruled unconstitutional in 2003 by the U.S. Court of Appeals for the Sixth Circuit. In those instances county authorities surrounded framed copies of the Commandments with other historical and patriotic texts. ACLU attorney David Friedman told the court, “That is simply wrapping the Ten Commandments in the flag.” Justice David Souter seemed to agree when he told Mathew Staver, a Florida attorney for various Religious Right causes, that “everybody knows that the present context is just litigation dressing.” Souter also asked whether it was justifiable to use only the Protestant version of the Commandments in Kentucky, and to exclude the Catholic and Jewish versions. Staver was unable to answer that one convincingly.

Given the intensity and frequency of these disputes across the U.S., many observers are hoping for a clear-cut ruling from the High Court. But a number of legal specialists think the Court will split its decision, upholding some types of religious recognition or symbolism but disallowing others. The nation will know by the end of June.

*New York Times* Supreme Court reporter Linda Greenhouse wrote, “At issue is whether to settle an issue once for all, or to decide case by case.” She also said the “Justices appeared to wrestle with contradicting impulses” during the oral arguments. “On the one hand, they were searching for a broad principle that could decide not only these disputes, but future ones as well. On the other hand, they appeared powerfully drawn to deciding the two cases on their specific facts, even at the risk of inviting an endless parade of future cases.”

An unusual number of states have supported retention of the Commandments. Twenty-six state attorneys general, as well as the U.S. Justice Department, filed briefs supporting the Decalogue. Scholars and law professors lined up on both sides. A brief by 14 university professors argued that “The Ten Commandments had virtually no effect or influence on the foundations of our country,” which Harold Berman of Emory University countered, calling the Decalogue “a historical source of universal legal obligations and an integral part of the legal heritage of Western civilization.”



## Court Allows Americorps Teachers in Catholic Schools

A three-judge federal appeals court panel upheld a federally subsidized teacher-training program that places educators in Catholic schools. The March 8 ruling by the U.S. Court of Appeals for the District of Columbia reverses a lower district court ruling that found the practice unconstitutional. The national service program, overseen by the Corporation for National and Community Service, provides participants with \$4,725 in financial aid for college tuition and student loan repayment if they complete 1,700 hours in an approved teaching program. Judge Raymond Randolph wrote that taxpayer support for religious schools is constitutional as long as government funds go to “programs of true private choice.” Most of the student participants are volunteer teachers associated with the University of Notre Dame’s Alliance for Catholic Education and are assigned to Catholic schools in poverty areas. The appeals court held that the program was “neutral toward religion” and “provides [aid to] a broad class of citizens who, in turn, direct government aid to religious schools wholly as a result of their own genuine and independent private choice.” The participants are chosen without regard for religion and teach religious as well as secular subjects. Hours spent in religious instruction do not count toward qualifying for financial aid.

The Notre Dame program began in 1994 and has assigned teachers to Catholic schools in 55 cities in 14 states. The American Jewish Congress (AJC) challenged the program in 2003. Marc Stern, general counsel for the AJC, said his group had not yet decided whether to appeal the decision to the U.S. Supreme Court. He reiterated his criticism that the AmeriCorps program is not neutral toward religion because government officials determine which schools are eligible to receive teachers.



## ARL Joins Florida Supreme Court Brief

Americans for Religious Liberty and the Baptist Joint Committee on Religious Liberty have submitted an amicus curiae brief to the Florida Supreme Court urging it to uphold a lower court ban on the state’s voucher program. The brief, written by Professor Steven Green of Willamette University College of Law, challenges the idea that constitutional bans on state funding for religious institutions is an outgrowth of anti-Catholic political movements in nineteenth century America. The brief asserts that, “the no-funding principle arose independently of Catholic parochial schooling or anti-religious animus and is based on important constitutional values. The principle rests on long-standing notions of religious liberty, rights of conscience and avoidance of religious strife.”

Citing the writings and actions of Thomas Jefferson and James Madison, Green’s brief says, “The principles of religious liberty, liberty of conscience, and separation of church and state – with their no-funding corollary – arose independently of and prior to the use of the common school movement or the development of the Catholic parochial school system.”

Court decisions in early nineteenth century New York substantiate this view, according to the brief’s historical citations. Green notes that bans on public funding for religion in Michigan (1835), Wisconsin (1848), Indiana (1851), Minnesota (1857) and Oregon (1857) generally antedated the Nativist and No-Nothing movements, or occurred in states that did not experience significant inter-religious strife. “Thus

there is little evidence that anti-Catholicism or disdain for Catholic schooling played a significant role in the development of the no-funding principle or in the enactment of many state no-funding provisions.” That there was some anti-Catholic bigotry expressed in the constitutional debates of the 1870s and 1880s is undeniable. But it was by no means the primary reason for enactments that eventually reached 36 state constitutions. “The Blaine Amendment and the no-funding principle must be viewed within this larger controversy over the character and future of American public schooling,” the brief continues.



## Maine Vouchers in Court Again

After repeated defeats in state and federal courts, supporters of vouchers for private religious schools are trying again in Maine. On March 25, eight families from the southern Maine towns of Durham, Raymond and Minot filed suit to force changes in Maine’s Rural School Choice Program. Under that program, rural towns (villages really) that do not maintain their own high schools may issue tuition vouchers for students to attend public or secular private schools in communities which have high schools. But since 1980 faith-based schools may not receive tuition support. Then Attorney General Richard Cohen issued an opinion that such direct aid to church schools violated the U.S. First Amendment.

In 1999 the Maine Supreme Judicial Court upheld the restriction on federal Constitutional grounds. Since then, a challenge, *Eulitt v. Maine Department of Education* was dismissed in the U.S. District Court. In October 2004, a three-judge panel of the First U.S. Court of Appeals agreed with the state, holding that it may be permissible for the state to fund religious education but it is not required to do so.

Once again, advocates of funding religious schools have returned to the Maine Supreme Court in *Anderson v. Town of Durham*. They are supported by Institute for Justice, a national pro-voucher group. The Maine Civil Liberties Union has filed a brief urging retention of the ban on religious school funding. State education authorities have asked the state’s highest court to issue a final ruling, so the issue can be put to rest once and for all.



## Oregon Court Hands Scouts a Defeat

The Oregon Court of Appeals held that there is “substantial evidence” that the Portland School District discriminated against an atheist student by allowing the Boy Scouts to recruit on school grounds. The national organization requires a belief in God among its staff and recruits. The 6-3 decision in February was the latest in a series of challenges by Nancy Powell on behalf of her son Remington. The controversy began in 1996. Some courts held that the partnership between the Scouts and the school district violated the Oregon constitution’s ban on government involvement with religion and others said the recruiting was not an excessive entanglement of government with religion. The new ruling sends the case back to the state school superintendent for conciliation.

Since “only the students who meet a religious test may accept the invitation to join,” the school “subjects persons to differentiated treatment in a school activity on the grounds of religion,” the court held. “There is substantial evidence that, by giving the Scouts the access that

*continued on page 10*

---

## Church and State in the Courts, *continued from page 9*

it does, the district treats those students who are eligible to join the Scouts differently from those who are not.”



### Evangelistic Flyers Not Permitted

A March 24 ruling by a federal court has supported a Montgomery County, Maryland, school board decision to ban school flyers advertised by a national Christian evangelical group. The ruling by the U.S. District Court in Greenbelt said the county did not violate the First Amendment rights of Child Evangelism Fellowship of Maryland in 2001 when it barred the group from distributing flyers to elementary school students. The group tried to set up Good News Club programs including prayer, Bible reading, and overt proselytizing of students into evangelical Christianity. It has operated in many states.

The court ruling noted that the school system's policies offered other avenues for groups to promote their activities in a more voluntary manner, rather than including its information in all student information packets. In July 2004, the school system issued strict new guidelines that applied to all nonprofit and noncurricular groups seeking distribution of materials to all county students.

The district court heard the case after the U.S. Court of Appeals for the Fourth Circuit sent it back for trial. The lower court had initially rejected the religious group's request for a preliminary injunction to allow the distribution of the flyers. The Bush administration filed an *amicus* brief supporting the Child Evangelism Fellowship. Montgomery County School Superintendent Jerry Weast applauded the ruling. "The decision reflects the best interests of our community and upholds the efforts of the Board of Education to be fair and equitable in the distribution of materials to students. . . . I believe the court correctly recognized that appropriate limits can be placed on the information sent home with children."



### In other legal developments:

- The constitutionality of a federal law that requires prisons to respect the religious liberty rights of inmates was the focus of oral argument at the U.S. Supreme Court on March 21. The case, *Cutler v. Wilkinson* (No. 03-9877), originated in Ohio when prisoners sued Ohio correctional officials after being denied access to religious literature. A federal appeals court disagreed with their claim and invalidated the Religious Land Use and Institutionalized Persons Act (RLUIPA) as it applied to prisons. (The land-use portion of the bill passed by Congress and signed by President Clinton was not challenged directly, but could also be invalidated by the High Court.)

In the questioning, several Justices seemed to be leaning against the law, especially Chief Justice William Rehnquist, who implied that Congress was trying to circumvent or overrule a 1997 case, *City of Boerne v. Flores*, which narrowed the free exercise clause's applicability to zoning law.

Ohio state solicitor Douglas Cole argued that the law shows partiality to "religion." However, a large number of civil rights and religious liberty organizations, including ARL, have asked the court to uphold RLUIPA in order to insure freedom of religion to those incarcerated,

particularly since minority religions are often burdened or discriminated against by prison authorities. The law provides that "no government shall impose a substantial burden on religious exercise of a person residing in or confined to an institution unless the burden can be justified as being the least restrictive means of furthering a compelling governmental interest." A provision applies the same test to zoning and other land-use provisions that affect religious institutions."

Those who want RLUIPA to be declared unconstitutional include the National League of Cities.

- On March 28 the Colorado Supreme Court threw out a capital murder conviction because the jurors reportedly consulted the Bible to reach their verdict ten years ago. The 3-2 ruling said jurors should not have invoked a "higher authority." The majority said, "Jurors must deliberate in that atmosphere without the aid of or distraction of extraneous texts." Calling the Bible an "extraneous text" has infuriated religious conservatives. The ruling has the effect of reducing the death sentence of the defendant to a life sentence without parole. The capital sentence had originally been overturned by a lower district, and the state's highest court upheld that ruling. In 1995 the jurors had voted unanimously for death, and had consulted biblical passages in their deliberations. Colorado law requires jurors in capital felony case to consult a "moral compass." Legal and theological scholars generally agree that the Bible has many things to say about law, justice and mercy beyond the oft-cited "eye for eye, tooth for tooth" passage. Some legal experts say jurors in capital cases often draw upon their own religious and ethical backgrounds in reaching a verdict that can result in a death sentence. Thane Rosenbaum, a law professor at Fordham University School of Law, wrote in a 2004 book that jurors were expected by the courts to render verdicts based on their "moral universe" and to make "moral judgments."

- A federal appeals court in Richmond ruled that a local government body may allow prayers before county board meetings and may even exclude certain religions from participation. On April 14, a three-judge panel of the Fourth U.S. Circuit Court of Appeals reversed a lower court's 2003 decision in *Simpson v. Chesterfield County*. The lower court had held that the board of supervisors' decision to exclude a prayer by Cynthia Simpson, an adherent of the Wiccan religion, was wrong. The appeals court, considered the most conservative of the U.S. appellate courts, based its ruling on the 1983 *Marsh v. Chambers* decision of the U.S. Supreme Court. That decision upheld legislative prayer in Nebraska. Miss Simpson said she will seek a full court review of the decision. Last year the same court ruled in favor of a South Carolina Wiccan because the governing authorities in Great falls "insisted on the invocation of Jesus Christ by name." In the case from Chesterfield County, Virginia, the Court held that "Chesterfield has aspired to nonsectarianism and requested that invocations refrain from using Christ's name, or any prayers with denominational appeal." The county, however, has restricted its prayers "to a divinity that is consistent with the Judeo-Christian tradition." The American Civil Liberties Union and Americans United filed suit on Simpson's behalf in 2002. Kent Willis, executive director of Virginia ACLU, said, "The court is allowing Chesterfield County to prefer some religions over others when it conducts its meetings' opening prayers. . . . This runs counter to every notion our Founding Fathers had about freedom of religion and separation of church and state." ACLU filed an appeal for rehearing on April 26 with the full Fourth Circuit Court of Appeals.

- The California Court of Appeals ruled unconstitutional a longstanding practice of the Burbank City Council to invite only Protestant ministers to give invocations before meetings. Jewish and Catholic plaintiffs filed suit after there was an invocation "in the name of Jesus

Christ.” *Rubin v. City of Burbank* the court enjoined the municipality from “knowingly and intentionally allowing sectarian prayer at city council meetings.”

- A lawsuit filed in Pennsylvania on February 18 challenges a taxpayer-funded religious instruction program in vocational training in Bradford County (see *Voice of Reason* #88). The *Moeller v. Bradford County* case before the U.S. District Court for the Middle District of Pennsylvania is sponsored by the ACLU and Americans United on behalf of a group of taxpayers and members of the Bradford County Alliance for Democracy. The state challenges the Firm Foundation program at the Bradford County Correctional Facility, a job training course that proselytizes inmates and their families and hires only Christians. A former inmate, Tim Thurston, is also a plaintiff. Thurston took part in Firm Foundation’s program because there were no alternatives available to the religion-based one. Over 90% of the evangelical group’s budget comes from federal, state and local funds under President Bush’s faith-based initiatives. Attorney General Alberto Gonzales is one of the defendants since the U.S. Department of Justice underwrites some of the program.

- The Tangipahoa Parish, Louisiana, school board voted unanimously in March to appeal a federal court ruling striking down the practice of opening its meetings with prayer. U.S. District Judge Helen Berrigan ruled on February 25 that prayer at school board meetings

violates the First Amendment’s ban on religious establishment. Louisiana Governor Kathleen Blanco also criticized the ruling and said she would ask the state attorney general to file a brief supporting the board in the appeal.

- A federal judge ruled on March 2 that the University of North Carolina at Chapel Hill must recognize a Christian fraternity that has challenged the school’s nondiscrimination policy. Alpha Iota Omega was stripped of its recognition and access to student funds and university facilities because it bars nonbelievers and gays from membership. The fraternity sued last year, claiming that university policy violates its members’ free exercise of religion, free speech and freedom of assembly rights. The case may be resolved by a trial since an agreement between the fraternity and the university administration has fallen through.

- A federal judge upheld Utah’s ban on polygamy as it applies to issuing marriage licenses. U.S. District Judge Ted Stewart held on February 17 that the state has a valid interest in protecting monogamous marriage. He rejected plaintiffs’ argument that Utah’s prohibition of polygamy was an unconstitutional violation of religious freedom and privacy rights. The case was brought was a Salt Lake City man, G. Lee Cook, who applied for a second marriage license in 2003 at the Salt Lake County Clerk’s Office with his first wife in tow. Cook said he will appeal the ruling to the Tenth U.S. Circuit Court of Appeals.



## The Voucher Watch

- The Utah House rejected a tuition tax credit bill on February 26 by a vote of 40-34. The proposal could have cost the state \$11.7 million by 2007, according to an analysis by the Utah Office of Education. In 1988 Utah voters rejected a similar proposal in a referendum by a margin of 70% to 30%.

- The Arizona Senate expanded its indirect tax credit that allows corporations and individuals to deduct tuition paid by private schools from their state income tax. Arizona’s two Catholic bishops, Thomas Olmstead and Gerald Kicanas, urged lawmakers to expand the program that provides millions in tax revenues to groups that give scholarships to private and parochial schools. The state supreme court upheld the constitutionality of the law a few years ago. The Arizona Department of Revenue said that \$29.5 million was given to nonpublic schools under the tax credit law in 2003.

- A challenge to the Arizona Educational Tax Credit brought by the Arizona Civil Liberties Union was dismissed in March by Federal District Judge Earl Carroll. A similar challenge failed in 1999 before the Arizona Supreme Court.

- The Arizona Senate also passed a tuition grant/voucher bill that would provide \$4,500 for high school students and \$3,500 for students in lower grades to attend private schools. Eligibility would be phased in. The vote was 16-12, the bare minimum required for passage in the 30-member Senate. The House approved the measure, but Democratic Gov. Janet Napolitano vetoed it.

- In Ohio Republican Governor Bob Taft’s 2006 and 2007 budgets include \$9 million to offer new vouchers up to \$3,500 per student for low-performing public school students outside Cleveland to attend nonpublic schools. Currently, about 4,000 students in Cleveland receive vouchers of \$2,700 to attend mostly faith-based schools.

- In Florida, Governor Jeb Bush prodded lawmakers to expand the state’s controversial voucher program. Under a proposal announced by the governor in his State of the State Address in March, the state would fund a Reading Compact Scholarship. Students who scored in the lowest category on the reading section of the Florida Comprehensive Achievement Test for three straight years would be eligible for state money for tuition to a private (or public) school of their choice. The “scholarships” are worth about \$3,800 for grades 4-8 and \$4,257 for high school. The Republican-dominated legislature stripped the proposal from an education bill before the legislative session ended.

### Need a Speaker?

Americans for Religious Liberty can provide expert speakers for:

Conferences • Meetings • Debates • Universities  
Churches • Synagogues • Radio and TV talk shows  
Student Groups • Etc.

Write or phone: Americans for Religious Liberty  
PO Box 6656  
Silver Spring, MD 20916  
(301) 260-2988

---

## Editorials

### Pope Benedict XVI

The election on April 19, on only the second day of the conclave and the fourth ballot, of Germany's Cardinal Joseph Ratzinger as Pope Benedict XVI shattered several fairly safe predictions. He is the first German pope in a thousand years and at age 78 is the oldest pope at his election in 275 years. He was something of a favored candidate, and the frontrunners for the papacy are always supposed to lose. At a time when Catholicism's strength is waning more in Europe than anywhere else, Europe's historic hold on the papacy was thought by many to be slipping away, to be replaced, perhaps, by someone from the Third World.

To be sure, Ratzinger had a number of strengths. He was dean of the College of Cardinals and a visible figure at John Paul II's funeral and the conclave's opening. For almost a quarter of a century, he headed the Congregation for the Doctrine of the Faith, once known as the Holy Office and, before that, the Inquisition. He has been the "enforcer" of conservative doctrine and discipline in the Church and has reportedly cracked down on dissent. An author of several books, he is seen correctly as the guardian of orthodoxy.

Many of his positions seem unsuited to the challenges of the new century. He is not known as an able diplomat, as were John XXIII and Paul VI, and he seems ill prepared to treat other world religions with respect. He has approved encyclicals restating the superiority of Catholicism and he has never shown John Paul II's enthusiasm for ecumenical dialogue. His conservatism is more of the negative type, as is seen by his recent attacks on alleged "Christianophobia" in Europe, his apparent disdain for pluralism within and without the Church, and his denunciation of the "dictatorship of relativism."

American Catholics of the progressive sort are dismayed at two of the new pope's stated positions. He denounced the news media for "exaggerating" the scope of the clerical sex abuse scandals and claimed that enemies of the Church were using the revelations to abuse and weaken the institutional church. During last year's presidential campaign he said that Catholic politicians who supported freedom of choice on abortion should not receive the sacrament of Holy Communion, which was clearly aimed at Democratic candidate John Kerry. While conservative Catholics welcomed these statements, no doubt, many others were dismayed by them. Catholic politicians who support capital punishment, preemptive wars, and politics that harm the poor and disadvantaged face no such retribution.

Traditionally, new popes, like presidents, are given a honeymoon from criticism, until their policies are formulated. Pope Benedict XVI is

likely to have a short one. It is difficult at this juncture to see how his election will advance social justice for the oppressed, interfaith harmony or the strengthening of democratic institutions.

— *Al Menendez*

### An Independent Judiciary

One would have thought that the importance of an independent judiciary is as basic as Civics 101. Anyone with a modicum of knowledge of American history knows that the Founders wisely distrusted autocratic government and set up instead a tripartite system wherein the executive, legislative and judicial branches were co-equal and independent of each other. The concepts of separation of powers and checks and balances were built into the system, allowing for orderly change after considerable reflection and a balancing of competing interests. Such a system, however imperfect as are all human creations, has worked remarkably well for more than two centuries.

Comes now the angry bluster of political and religious extremists who see the existence of an independent judiciary as a roadblock to their cultural dominance of society. Stirring up religious bigotry and threatening to impeach federal judges or defunding federal courts in order to steamroll unsuitable nominees bring the nation to the brink of a constitutional crisis.

In order to preserve religious liberty, a secular state and a pluralistic culture, we urge the U.S. Senate to resist this assault on our fundamental freedoms. We endorse this declaration made on the floor of the U.S. Senate by Vermont Senator Patrick Leahy:

"Part of upholding the Constitution is upholding the independence of the third branch of government. One political party or the other will control the presidency. One party or the other will control Congress. No political party should control the judiciary. It should be independent of all political parties. That was the genius of the founders of this country. It is the genius that has protected our liberties and our rights for well over 200 years. It is the genius of this country that will continue to protect us unless we allow some to destroy it for short-term political gain. It would be a terrible diminution of our rights if we were to remove the independence of our federal judiciary. That would do things that no armies that have marched against us have ever been able to do. If you take away the independence of our federal judiciary, then our whole Constitutional fabric unravels."

— *Al Menendez*

---

## Update

### Bush Gives Faith Groups \$2 Billion

The Bush administration gave more than \$2 billion to faith-based groups in fiscal year 2004, nearly double the \$1.17 billion doled out in 2003. The data were released by the administration's Office of Faith-Based Activities. Some students of statistics think the true figures may actually be higher, since state governments do not always differentiate between faith-based charities and other groups. A considerable portion of the \$2 billion was channeled through state governments. New York, Illinois and California each received more than \$100 million targeted to charities that are connected with religion. The other top-ten states were New Jersey, Florida, Michigan, Pennsylvania, Texas, Georgia and Ohio.

---

### Catholic School Enrollment Declines

Enrollment in Roman Catholic parish schools declined 2.6% from the 2003-04 to the 2004-05 school years, according to the National Catholic Educational Association. Since the 2000 school year, Catholic schools have lost 200,000 students, declining from about 2.6 million to 2.4 million. Last year, 173 schools were closed while only 37 new ones were opened. Tuition has also increased significantly, but Catholic schools are still generally less expensive than most other private schools. The Catholic share of the nonpublic school sector is now less than half.

### Religious Bias in the Workplace

Charges of religious discrimination against Muslims in the workplace have increased since 2001, while complaints of bias experienced

by other religious groups have declined, according to a report issued by the U.S. Equal Employment Opportunity Commission (EEOC) in 2005. Here is a summary of charges by religion:

	2001	2004	% Change 2001-2004	Total Number of Claims 2001-2004
Muslim	550	775	+40.9	4,053
Jewish	504	464	-7.9	2,006
Protestant	382	356	-6.8	1,446
Catholic	259	252	-2.7	1,020

Claims of anti-Muslim discrimination were particularly high in 2002, when 1,774 cases were filed.

### Critic Questions Bush

While President Bush continues to pay lip service to faith-based programs and has actually expanded funding for some of them in his new budget, a former aide has questioned whether there is any real “compassion” left in the president’s claim of compassionate conservatism. David Kuo, deputy director of the White House Office of Faith-Based and Community Initiatives from February 2002 to December 2003, said the administration lacks a genuine commitment to helping the poor and disadvantaged.

In a February 14 Beliefnet.com column, Kuo wrote, “No administration since Johnson’s has had a more successful legislative record than this one. From tax cuts to Medicare, the White House gets what the White House really wants. It never *really* wanted the poor people stuff.” Kuo said Bush never really fought for a proposal to allow people of limited incomes to deduct charitable contributions from their IRS short form taxes, as the long form filers are allowed to do. He wrote that Bush promised \$8 billion to religious charities but delivered only \$1.2 billion.

Bush, meanwhile, uses every forum to promote expansion of his faith-based initiatives, on both the state and federal levels. In a speech on March 1 to religious charities, the president poked fun at Congress for refusing to approve his aid programs that allow religious bias in hiring. He cited his executive order that circumvented Congress and said it should be codified into federal law. Using frank evangelical rhetoric, he also said that if people “are saved, they will become sober.”

### San Diego Cross Case Finally Ends

After sixteen years of legal wrangling, the San Diego City Council voted 5 to 3 on March 8 to remove a 43-foot cross from the top of Mount Soledad in La Jolla, California. Federal courts have repeatedly ordered the removal of the cross in a veterans memorial on public property to a private setting, but religious conservatives and Republican members of Congress intervened to block compromises. Last fall voters in San Diego rejected an effort to retain the cross in its present location. A last-ditch effort by San Diego Republican Congressmen Randy Cunningham and Duncan Hunter to designate the area as a national veterans memorial under the National Park Service was signed by President Bush in December. But San Diego City Attorney Michael Aguirre held in March that donating land to the federal government for a religious purpose would violate the California constitution and the U.S. Constitution.

The cross had been erected in 1954 on city-owned property and called a veterans’ memorial. Easter services were held there for many

years. Two veterans, Howard Kreisner and Phil Paulson filed suit in 1989 accusing the city of violating the state constitution.

The cross is supposed to be moved to a non-public site within 90 days, or by June 8, unless further disruptive shenanigans occur.

### Edwards Cautions Democrats on Religion

Former North Carolina senator and unsuccessful 2004 Democratic vice presidential candidate John Edwards told an ABC television audience that Democrats should not be seen as constantly invoking God’s name on the campaign trail because voters will see it as phony or insincere. “I don’t believe the answer for us going forward is to invoke the Lord’s name 55 times in a speech,” he said on ABC’s “This Week” on February 20.

Other Democrats are calling for more religious language in party documents and speeches. In February the House Democratic leadership tapped Rep. James E. Clyburn of South Carolina, the son of a minister, to head a “faith working group” to encourage lawmakers to add references to God and religion to their speeches. “Look in the Book of James,” Clyburn said. Other Democrats, including New York Senator Hillary Rodham Clinton and former DNC chairman Steven Grossman, have called on the party to “broaden its vision and message” and take a “values approach” to public policy issues.

### Stem Cell Research Support Increases

More than 63% of Americans support embryonic cell research, according to a national poll by Opinion Research Corporation (ORC). The poll, commissioned by Results for America, a project of the non-partisan Civil Society Institute, was released on February 15. The 63% to 28% support for stem cell research is up sharply from a 48-43% favorability in a 2001 poll by the same organization, which is based in Newton, Massachusetts. The poll surveyed 1,022 adults in February 2005.

Support was greater among those with high incomes and college degrees.

An even higher level of support was found for federal legislation to promote such research (70%) and state-level initiatives to encourage research (76%). Even a majority of self-defined conservatives supported more research. A stem cell research bill is expected to be introduced by Reps. Michael Castle (R-DE) and Diana DeGette (D-CO) during this session of Congress.

### House Allows Religious Bias in Hiring

A House vote of 224-200 on March 2 will allow religious groups participating in federal job-training programs to hire staff based on their religious beliefs.

The largely partisan vote came on the Job Training Improvement Act (HR 27), which was an extension and rewrite of the 1998 Workforce Investment Act. Under current law, as signed by President Bill Clinton, religious organizations that participate in federally-funded job training programs cannot discriminate on the basis of religion in their hiring practices. The House bill, backed by President Bush, removes that prohibition.

Rep. Robert Scott (D-VA) tried to amend the bill to preserve the ban on religious discrimination but his amendment was defeated 239 to 186. Scott said the new legislation would “shift the weight of the

*continued on page 14*

federal government from supporting the victim of discrimination to supporting some so-called right to discriminate with federal funds.” Bush praised the House for passage of the bill, claiming that groups should not have “to give up a part of its religious identity and mission.”

Over 96% of Republicans (220-8) but only 2% of Democrats (4-191) supported HR 27. The legislation faces a tougher test in the Senate. In 2003 both the House and Senate passed similar job training measures but were unable to reconcile their differences. The Senate has consistently held out for retention of the religious discrimination ban.

ARL was part of the 37-member Coalition Against Religious Discrimination which urged a defeat of HR 27 absent the adoption of a civil rights amendment.

## New Prayer Amendment Expected

Rep. Ernest Istook (R-OK) refuses to give up his cherished constitutional amendment to allow organized prayer in public schools, despite repeated defeats in the past decade. Istook’s new proposal, anticipated soon, will “protect” the Pledge of Allegiance’s religious phrase, formal school prayer, and the public display of the Ten Commandments. Istook told *Washington Times* reporter John McCaslin that “the issue will not go away.” He claimed that a way can be found to “avoid official religion while protecting our religious expressions and freedom.”

The proposed constitutional amendment will be worded this way: “To secure the people’s right to acknowledge God according to the dictates of conscience: ‘The people retain the right to pray and to recognize their religious beliefs, heritage and traditions on public property, including schools.’”

“The United States and the states shall not establish any official religion nor require any person to join in prayer or religious activity’.”

Despite an increased Republican majority in the House, and a favorable president, the amendment seems unlikely to muster the required two-thirds vote.

## PFAW Blasts Dobson

“James Dobson has spent thirty-five years building a media empire and a loyal following, and in recent years he has moved aggressively to put both in the service of a far right political agenda. His increasingly

successful efforts as a leading power broker working to move the Republican Party into an even closer embrace with the Religious Right political movement merit closer attention, because the agenda Dobson is promoting is at odds with cherished American ideals of individual liberty, separation of church and state, and an independent judiciary committed to upholding Americans rights and freedoms.”

This is the conclusion of a study of Dobson’s religious political empire published on February 24 by the People for the American Way Foundation. The detailed and documented analysis probes Dobson’s “colossal media empire” that employs 1,300 people, presents a news program daily on 3,000 radio stations in North America, sends out four million pieces of mail each month, buys television time on 80 stations daily and maintains an activist network of 104,000 people.

The full report, “Dobson’s Choice: Religious Right Leader Becomes Political Power Broker” is available at [www.pfaw.org](http://www.pfaw.org).

## Religious Right Group Wants to Reclaim America

About 900 zealous Christian Rightists met at Coral Ridge Presbyterian Church in February to plan a new campaign aimed at “reclaiming America for Christ.” D. James Kennedy, pastor of the evangelical church and a political activist, welcomed participants to the tenth annual conference of the Center for Reclaiming America and its Washington, DC lobby, the Center for Christian Statesmanship.

Kennedy told attendees, “As the vice-regents of God, we are to bring His truth and His will to bear on every sphere of our world and our society. We are to exercise godly dominion and influence over our neighborhoods, our schools, our government . . . our entertainment media, our news media, our scientific endeavors – in short, over every aspect and institution of human society.”

This far right movement emphasizes abortion, creationism, “pornography and indecency in the entertainment industry,” and “the homosexual agenda.” The Center reportedly has 500,000 “e-mail” members and announced plans for 12 regional offices and activists in all 435 U.S. House districts. Getting rid of “activist judges” is a major goal, according to executive director Gary Cass, a California pastor. The Center’s national field director, Barbara Collier, was co-chair of the Bush campaign in Broward County, Florida, where Kennedy’s church is located. Cass told the group, “We’re going to take back what we lost in the last half of the Twentieth Century.” Rev. Rick Scarborough, founder of Vision America, brought the conference crowd to its feet by declaring, “Judicial activists are running rampant and a God-free country is their goal. All means to turn the tide must be considered, including their removal.” Other speakers included Alan Sears of the Alliance Defense Fund, who stressed his group’s efforts against gay rights laws and same-sex marriage proposals, Tim Wildman of the American Family Association, who called for more FCC regulatory actions against allegedly indecent TV programs and for boycotts of advertisers of objectionable programs. The conference’s call for “restoring a Christian nation” was endorsed by Richard Land of the Southern Baptist Convention.

## U.S. Pressures Three Nations on Religious Freedom

The U.S. government has been lobbying Saudi Arabia, Vietnam and Eritrea to enhance religious freedom. These three nations were cited as of “particular concern” under the International Religious Freedom Act. State Department spokesperson Adam Ereli told reporters on March 15, “We’ve been actively engaged with all three in working for improvements in respect for religious freedom in those countries. We’ve made some important progress.” The Bush administration asked Congress to extend the deadline for the three governments to demonstrate

### Safeguarding the Future

Religious liberty and church-state separation will never be completely secure. But you can help provide the means for their defense in the future in two ways.

Include a bequest to Americans for Religious Liberty in your Will, or include ARL as a beneficiary in a life insurance policy. Bequests and insurance proceeds to ARL are tax deductible.

Please contact us if you would like further information.

Americans for Religious Liberty  
PO Box 6656 • Silver Spring, MD 20916  
301-260-2988 • fax 301-260-2089 • email:  
[arline@erols.com](mailto:arline@erols.com)

concrete commitments toward improving religious liberty. The deadline was March 15. Under legislation signed by President Clinton, nations cited for religious liberty violations have six months to make progress or face potential sanctions from the U.S. in trade, aid and other areas. Some nations, including Iran, North Korea, Sudan, Burma and China, have made no progress in religious freedom.

## Released Time Still Popular in Virginia

About 20 school districts in Virginia's Shenandoah Valley still maintain Weekday Religious Education classes, as they have since 1929. Formerly held on school property, they are now conducted in nearby churches and funded by local Protestant churches. Local private groups, usually associated with conservative or evangelical churches, run the Bible classes for first, second and third graders, though no grades are given. School personnel are not supposed to encourage student participation. Opposition to the classes has increased, especially from parents who have recently moved into the area from other states. Some parents requested modification of the program before the Staunton school board on February 14, but the board voted 5-1 to continue the program. Jack Hinton, president of the private group that sponsors the lessons, threatened defeat for any board members who voted to eliminate the classes. The Interstate 81 corridor through the Valley is a conservative area with large numbers of Methodists, Presbyterians and Baptists, as well as pockets of Brethren, Mennonites and Lutherans. Historically Scots-Irish and German, the Valley is a Republican stronghold. Augusta County, where almost all students participate in the Bible instruction program, gave 77% of its 2004 presidential vote to George W. Bush. The little college town of Staunton, home to Mary Baldwin College, has 75 churches for a population of 24,000.

## Prayers Okayed in Virginia Councils

The Virginia General Assembly unanimously affirmed a measure allowing municipal bodies in Virginia to begin their deliberations with prayer, specifically including vocal and sectarian ones. The measure was clearly designed to circumvent a U.S. Fourth Circuit Court of Appeals ruling in 2004 that struck down the practice of Christian-only prayers in a South Carolina town. The conservative Fourth Circuit's decision applies to Virginia, Maryland, West Virginia, and the Carolinas.

## Boykin Violated Pentagon Rules

U.S. Army General William Boykin clearly violated a number of Pentagon rules, according to an Inspector General's report issued last August but not published until it was made available by Rep. John Conyers (D-MI) on March 3. General Boykin made 23 appearances at religious-oriented events in 2002 and 2003, at which he claimed the U.S. was fighting the evil religion of Islam and likened the wars in Iraq and Afghanistan to battles against Satan. The Army said in October that it had taken punitive action against Boykin but declined to provide details of its action. Congress had called for Boykin to be re-assigned or reprimanded and forbidden to make inflammatory addresses that might incite religious prejudice.

### Moving?

Please send a change of address form to: Americans for Religious Liberty, PO Box 6656, Silver Spring, MD 20916.

*"There are a lot of issues we make a big deal out of that will be forgotten two or three years from now. But if we allow government to get overtly involved in our personal religious faith and our houses of worship, it will start our country down a slippery slope that would fundamentally change our nation for the worse."*

— U.S. Representative Chet Edwards (D-TX), *Waco Tribune*, March 28, 2005.

## MD, MA Okay Tax Funded Abortions, Stem Cell Research

The Maryland House of Delegates rejected on March 21 attempts by conservatives to restrict tax-funded abortions for poor women to cases only of rape, incest or possible death of the mother. The vote was 79-52. Democrats, in the majority by 2-1, beat back a Republican-inspired measure to eliminate most abortions under the state's Medicaid program.

A stem cell research proposal also passed the Maryland House 83-52, with 89% of Democrats and 2% of Republicans casting favorable votes. The measure, if it becomes law, will commit the state to expanded scientific research in the field. Republican Governor Robert Ehrlich has not indicated whether he will sign or veto the bill.

In Maryland the stem cell research bill failed to reach a Senate vote, because it was two votes short of overcoming a threatened Republican veto. The Massachusetts House voted 119-38 in favor of a final version of the bill, passed earlier by the state Senate on a 34-2 vote. Governor Mitt Romney has threatened to veto the legislation, but it appears that his veto could easily be overridden.

## Fundamentalist Mormons Move to Texas

The "Fundamentalist Church of Jesus Christ of Latter-day Saints," (FLDS), a polygamous sect with an estimated 10,000 members, is leaving its Arizona and Utah base and moving to Schleicher County, Texas. The rural West Texas county may soon be inundated by the new arrivals, and local authorities are torn between fear of changes in society and government and upholding religious freedom. The FLDS is led by Warner Jeffs and traces its founding to 1928, when members began migrating to remote areas on the Utah-Arizona border. Its members are forbidden to read newspapers, listen to radio or watch television or use the Internet. Civil suits in those states have accused leaders of sexual misconduct, statutory rape and abuse of women and children. The Attorneys General of Utah and Arizona have promised arrests, but only if proof can be ascertained. The secretive group's members refuse to recognize local civil authorities, thereby frustrating local law enforcement.

## Supreme Court Avoids Abortion Issue

Twice in recent months, the U.S. Supreme Court declined to revisit the abortion issue. In February the justices refused to reopen the 1973 *Roe v. Wade* ruling, turning down an appeal from the woman  
*continued on page 16*

---

## Update, *continued from page 15*

who was “Roe” in that case but has subsequently become an anti-choice crusader. On March 28 the Court declined without comment to reinstate an Idaho law that required women under age 18 to have permission from their parents to have an abortion. That decision let stand a ruling by the Ninth U.S. Circuit Court of Appeals striking down the Idaho law. According to the Planned Parenthood Federation of America, 44 states have laws requiring either parental consent or notification for the abortions of minors, though 11 state laws have not been enforced because of court rulings. Six states and the District of Columbia have not passed such restrictions.

### Mississippi Okays Commandments

On March 30 the Mississippi legislature approved a bill that would allow the Ten Commandments, the motto “In God We Trust,” and excerpts from Jesus’ Sermon on the Mount to be posted in all public buildings. The vote was 97-15 in the House and 40-4 in the Senate. Mississippi adopted another law in 2001 requiring the posting of “In God We Trust” in all public schools. Republican Governor Haley Barbour signed the bill on April 20.

### Marriage Amendments Approved

On April 5, Kansas became the 18<sup>th</sup> state to adopt a constitutional amendment to define marriage as solely between men and women. Alabama, South Dakota, Tennessee and Virginia are expected to vote on similar amendments in November 2006. Indiana will do in 2007 or 2008. A nationwide campaign by Religious Right groups has accelerated the movement to outlaw same-sex marriage in every state. In most states legislatures must approve proposed constitutional amendments before they are submitted to the voters. Marriage amendment bills are currently before legislative committees in North Carolina and Texas.

### Parties Divide on Religion

A *Washington Post*-ABC News poll released on April 26 finds that Republicans, by 62% to 35%, “think a political leader should rely on his or her religious beliefs in making policy decisions.” Democrats were opposed to that view 65% to 27%, and Independents were also skeptical by 59% to 38%. Overall, 55% of those polled rejected that statement while 40% agreed with it. The Republicans were cited as being “more sympathetic to religion and religious people” by 48%, while 34% thought Democrats were more sympathetic to “people of faith.” The other 18% were not sure which party was more pro-religion.

### The Papal Funeral

The April 8 funeral of Pope John Paul II attracted the largest delegation of world leaders to any funeral in history. More than 70 presidents

and prime ministers joined nearly a dozen reigning monarchs at the event in St. Peter’s Square. The U.S. delegation was led by President George W. Bush, the first U.S. president to attend a papal funeral. He was joined by wife Laura, former presidents Bill Clinton and George H.W. Bush, and Secretary of State Condoleezza Rice. Former president Jimmy Carter, who welcomed John Paul II to the U.S. in 1979, was excluded from the delegation, which was called “outrageous” by Carter’s national security adviser Zbigniew Brzezinski. Previous papal funerals were attended by vice presidents (Lyndon Johnson in 1963) or by the president’s mother (Lillian Carter in 1978).

The president’s decision to lower U.S. flags to half staff on public buildings was criticized by the Freedom from Religion Foundation, which also criticized Wisconsin Governor Jim Doyle for following suit. A similar protest occurred in Colorado, but Colorado ACLU defended the decision as “historically appropriate.” Federal law, specifically the Flag Code, allows presidents to lower flags for U.S. or foreign dignitaries. U.S. flags were flown at half staff upon the deaths of Winston Churchill, Anwar Sadat and Itzak Rabin.

### Christian Conservatives Target Ohio

The Ohio Restoration Project, led by evangelical pastors, has targeted the Ohio Republican Party for a takeover plan designed to win control of government at every level of the Buckeye State. The Rev. Russell Johnson, pastor of Fairfield Christian Church, announced plans in Columbus in March to register a half million new voters, enlist activists, train candidates and take control of local GOP organizations in all 88 counties. The next goal is to elect Kenneth Blackwell, the African American conservative Secretary of State, governor in 2006. Blackwell was co-chair of the Bush-Cheney campaign in 2004 and was widely criticized for allowing voting irregularities in the bellwether state, which tipped the election to Bush.

A Pennsylvania-based group that trains ministers in political activism endorsed the Ohio campaign. Let Freedom Ring’s president Colin A. Harna said, “In Ohio, the church is awakening to its historic role as the moral voice in the community.”

Republican State party chairman Robert Bennett was unimpressed. “This is a party of a big tent. The far right cannot elect somebody by itself, any more than somebody from the far left can.”

### Pastor Expels Democrats, Then Resigns

The Rev. Chan Chandler, the 33-year-old pastor of the East Waynesville Baptist Church, told church members last fall that if they voted for John Kerry, they should “repent or resign.” The antagonism in the small congregation in the North Carolina mountains 125 miles west of Charlotte boiled over in early May, as nine members, including three deacons, were expelled for the crime of being Democrats. The rift in the church caused 40 of the 100 members to resign and to call for the pastor’s removal. Chandler denied being partisan but admitted condemning candidates who held “unbiblical values.” Some dissidents contacted lawyers to see if the church’s tax exemption could be removed for such blatant partisanship. Oddly enough, George Bullard, an official with the Baptist State Convention of North Carolina, told the *Asheville Citizen-Times* that pastors may establish any criteria they wish for church membership. It all depends on the local church’s by-laws, he said. Chandler was criticized by the head of the North Carolina Democratic Party, chairman Jerry Meek. On May 10 Pastor Chandler delivered a brief statement of resignation. About 40 supporters of Chandler also announced their departure.

Even in Republican Haywood County, political divisions can tear apart the dominant religious group.

We will be happy to send a sample issue of this newsletter to people you think might be likely subscribers. Please send names and addresses to Americans for Religious Liberty, PO Box 6656, Silver Spring, MD 20916, or email to [arline@erols.com](mailto:arline@erols.com). If they have decided that they are ready to subscribe, they should visit [www.arline.org](http://www.arline.org).

## International

**Athens:** Scandals continue to plague the Greek Orthodox Church. Supreme Court investigators are focusing on an alleged case of jury-tampering by a priest. The bishop of Attica was suspended for six months for alleged misappropriation of church funds. Another priest, Archimandri Iakonos Glosakis was suspended after being charged with smuggling antiquities. Archbishop Christodoulous, speaking before an emergency meeting of the Holy Synod in February, “humbly apologized” and announced a series of reforms designed to prevent financial irregularities among high church officials. Newspapers and public opinion have lambasted Greek Church leaders for allowing these scandals, which also include an alleged male brothel run by a bishop.

**Jerusalem:** Israel’s influential Orthodox rabbinate has been rent by conflicts regarding the writings of Rabbi Nassan Slifkin, whose popular but recently banned books “seek to reconcile, rather than to contrast, sacred texts with modern knowledge of the natural world,” according to Alex Mindlin in *The New York Times* issue on March 22, 2005. Twenty-three ultra-Orthodox rabbis signed an “open letter” in January denouncing Rabbi Slifkin’s books. Slifkin is himself an ultra Orthodox scholar and science writer. After the denunciation, Slifkin’s publisher and distributor dropped his three most recent books. The attempts to marginalize Slifkin, who at age 29 has published nine books, have split the ultra-Orthodox movement, which holds views akin to those of fundamentalist Protestantism on creationism and scientific inquiry. One of Slifkin’s opponents, Yosef Shalom Elyashiv, is a leader of the united Torah Judaism party, which holds seats in the Knesset. In his book, *The Science of Torah*, Slifkin defended evolution as consistent with Jewish thought and asserted that the world was much older than 5,765 years. This claim apparently led to the denunciation which said, among other things, that Rabbi Slifkin’s “book must be kept at a distance and may not be possessed or distributed.” In fact, the young scholar should “burn all his writings,” said the open letter which was placed on posters in the ultra-Orthodox neighborhood of MEA Shearim in Jerusalem.

**Jerusalem:** Israeli authorities have been kept busy trying to keep warring Christians from disrupting activities at the Church of the Holy Sepulcher in the Holy City, where Christians believe that Jesus was buried. Since last September, fighting has broken out among members of the three churches – Armenian, Greek Orthodox, Roman Catholic – that have had jurisdiction over the Holy Places since the 19<sup>th</sup> century. Writes Inigo Gilmore in the *London Daily Telegraph*, “Security will be stepped up at churches in an attempt to prevent a repeat of the clashes that have marred the past two years.” Catholics and Armenians blame the recent unrest on the Greek Orthodox patriarchate, which, says the *Daily Telegraph*, “is Israel’s biggest landowner apart from the government.” The Greek Church even owns the land on which the Knesset, the Israeli parliament, sits. On March 19 Arab leaders of the Greek Orthodox Church called for the resignation of Patriarch Irineos I, after credible reports that he has allowed illicit land deals and sexual misconduct in the Orthodox priesthood. One senior Greek cleric told the London newspaper, “They behave like a criminal Mafioso gang, but this gang has run into big trouble.” Irineos was ousted by his synod in May.

**London:** Prime Minister Tony Blair told a group of Christian activists on March 2 that he did not want a system where religion dominates politics. “I don’t want to end up with an American-style type of politics with us all going out there and beating our chests about our faith.” Blair, once a member of a Christian Socialist group and himself a practicing adherent of High Church Anglicanism, said that churches make a “visible, tangible difference” for the better in society and should be encouraged “to play a bigger, not a lesser role, in the future.” He praised

## Visit ARL’s Web Site

You can now visit Americans for Religious Liberty’s internet website: [arllinc.org](http://arllinc.org). The site contains information about the organization, books available on church-state issues, and reprints of important articles. New material will be added as available.

churches for being in the forefront of attempts to fight world poverty and injustice but criticized sectarianism.

**London:** The third-straight victory of Prime Minister Tony Blair’s Labour Party, in the May 5 general election, was not accomplished without some upsetting of traditional voting patterns. Labour’s vote plummeted in many constituencies with large Muslim communities. A real shocker came in the East London constituency of Bethnal Green, where its nearly 50% Muslim electorate ousted Labour incumbent Oona King. King, an African American whose father left Georgia in 1961 to avoid the U.S. draft, settled in England and married a woman of Hungarian Jewish ancestry, was defeated by anti-war zealot George Galloway in a race that turned ugly. Galloway, a Scotsman, was expelled by the parliamentary Labour Party and removed from his Glasgow seat for his outspoken opposition to the war in Iraq. Running as an anti-war Independent, Galloway got revenge on his former party.

Meanwhile, in Northern Ireland voters opted for extreme alternatives that will surely slow down the peace process and the reformist administration in place since the 1998 Belfast Agreement. Nine of the 18 seats were won by the Democratic Unionist Party (DUP), which expresses the hardline anti-Catholic views of its founder, Rev. Ian Paisley. A DUP candidate ousted moderate Unionist and Nobel Peace Prize winner David Trimble in his Upper Bann constituency. Only one moderate Unionist survived, in the upper class North Down area. On the Catholic side of the divide, five seats went to Sinn Fein, the more radical party and alleged political arm of the IRA, leaving only three elected representatives of the more moderate Social Democratic and Labour Party (SDLP). While eight of the 18 seats are held by Catholics, which reflects the decline of Protestants to less than 55% of Northern Ireland’s population, fully 14 of the 18 represent hardline parties that oppose greater Protestant-Catholic amity.

**Madrid:** The Spanish Parliament approved a bill on April 21 granting same-sex unions the same status as heterosexual marriages, including inheritance rights, pensions and the adoption of children. The 183-136 vote in the Congress of Deputies still needs Senate approval and a second reading in the lower house, but it is widely expected to become law. Spain will become the third European country, after Belgium and the Netherlands, to legalize same-sex marriage. The vote is likely to provoke a crisis with the Vatican, whose new leader, Pope Benedict XVI, has called gay marriage “profoundly negative” and “destructive of family and society.” Spain’s Conference of Catholic Bishops said the bill “introduced a dangerous and disruptive element into the institution of marriage and thereby into our just social order.” The Socialist government of Prime Minister José Rodríguez Zapatero insisted that the act expanded fairness and equality in Spanish society. A survey last year found that 70% of Spaniards favored the legislation.

Parliament also approved allowing divorced parents to share the custody of children and made civil divorce easier by easing restrictions. Divorcing couples no longer have to explain reasons for seeking a divorce, i.e., no fault divorce, and do not have to be separated before filing for a dissolution of marriage.

*continued on page 18*

**Stockholm:** A Swedish appeals court overturned the conviction of a Pentecostal pastor found guilty of violating the country's hate-speech law. The pastor, Rev. Ake Green, had preached a sermon in June 2003 that labeled homosexuality "a deep cancerous tumor on the entire society," and linked it to pedophilia. Green was convicted and sentenced to a month in prison but remained free pending an appeal. He was the first person convicted of violating the law since gays and lesbians were added to the protected persons list in 2002. He is also the first preacher convicted for remarks delivered in the pulpit. The court ruled on February 10 that the law, enacted after World War II to protect Jews and other minorities, was never intended to restrict discussion on vital issues or to limit a pastor's right to preach. The Supreme Court is reviewing the decision after the government appealed.

**Tirana:** Albania, Europe's only Muslim country (with Bosnia-Herzegovina approaching a Muslim majority), is cracking down on Muslim extremism imported from the Middle East. Since the 1990 collapse of the communist regime of Enver Hoxha, who proclaimed Albania the world's first atheist state in 1967, Albania has allowed free exercise of religion. Its population is estimated to be 60-70% Muslim, 20% Eastern Orthodox, and 10% Roman Catholic. A significant strain of Albanian Islam is Bektahism, a sect of mystic Shia that flourished in Turkey during the Ottoman Empire and played a key role in Albania's 19<sup>th</sup> century nationalistic movement. It is "moderate" and opposes *jihad* and *Sharia*. In recent years, however, thousands of young Albanian men have traveled to religious schools abroad, returning with a strict, fundamentalist interpretation of Islamic doctrine that may affect public policy decisions. The new extremists, called Salafists (from the Salafi branch of Islam) are building new mosques and schools and clash with established Muslim leaders and government officials. Fundamentalist Muslims from the Arab world visit Albania under the cover of aid missions. According to Reuters, the government is planning to build a theology school to end Albanian student contacts with overseas mosques, and to track the movements of those who studied abroad in extremist academies. A ban may be imposed on foreign trained preachers, or imams. Reuters opines that Albania wants to join the European Union and sees the crackdown on Muslim fundamentalism as an essential step toward eventual inclusion in Europe, which would almost certainly lead to economic revival in the poor Balkan nation.

**Vatican City:** Cardinal Angelo Soldano asked U.S. Secretary of State Condoleezza Rice to intervene in a class-action lawsuit currently pending before a U.S. District Court in Louisville, Kentucky. The extraordinary request came in response to a suit seeking to hold the Vatican financially responsible for the sexual abuse of minors. *The National Catholic Reporter*, which broke the story on March 3, reported that Rice explained that under American law foreign states are required to assert claims of sovereign immunity themselves before U.S. courts. The U.S. federal government cannot represent a foreign state.

*"Fundamentalism has little to do with religious truth. It is rather a secular seeking, defense mechanism used by frightened people. Fundamentalism rises out of an inner need for certainty that the world will never provide."*

— Bishop John Shelby Spong, Syndicated Column, March 16, 2005

The weekly paper's Rome correspondent, John L. Allen, Jr., said Soldano's action "suggests concern in Rome that sooner or later its immunity may give way, exposing the Vatican to potentially crippling verdicts." Judges generally dismiss claims against sovereign entities under the immunity provisions of international law or on First Amendment grounds. But the Kentucky case is somewhat different because it is a class action lawsuit and the Vatican is the sole defendant. A 1976 law, the Foreign Sovereign Immunities Act, makes it possible to sue sovereign entities in American courts if commercial activity is involved.

Jon O'Brien, vice president of Catholics for a Free Choice, wrote, "The Vatican again assumes the role of a state to escape culpability in a sex abuse lawsuit. But as a matter of law, it is our firm belief that the Holy See does not meet the criteria laid out for a state." He continued, "... by tolerating sexual abuse by its clergy and by seeking sovereign immunity rather than answering questions on the scope of its culpability, the Vatican is derelict in its responsibilities and commitments to two international conventions: the Universal Declaration of Human Rights and the Convention on the Rights of the Child."

## Books and Culture

Broadman & Holman, the "official" Southern Baptist publishing house in Nashville, seems to have been captured by the Religious Right. On its Spring list are these gems: Judge Roy Moore's tirade *So Help Me God: The Ten Commandments, Judicial Tyranny and the Battle for Religious Freedom*, which not only claims that the U.S. government is based on Christianity and U.S. laws on the Commandments but posits the idea that governments must openly "recognize" God or forfeit their sovereignty; Marvin Olasky's *Monkey Business: The True Story of the Scopes Trial*, which claims that Scopes was rightly and justly found guilty and that evolution is a myth that should not be taught in public school biology classes without disclaimers; and *Get Off my Honor! The Assault on the Boy Scouts of America* by Hans Zeiger, with a foreword by Oliver North, which defends the Scouts from assaults by civil libertarians, gay rights advocates and those who believe that religious discrimination should not be practiced by the organization.

*Good Catholic Girls* by Angela Bonavoglia (Regan Books) features courageous Catholic women who are struggling to refashion and reform their church. Among the heroines portrayed are Joan Chittister, a Benedictine nun and Vatican critic who is a member of the National Advisory Board of ARL, and Frances Kissling, the redoubtable leader of Catholics for a Free Choice.

*Harper's Magazine's* May issue is dynamite. A two-part article, "The Christian Right's War on America," features powerful exposes on the New Life Church in Colorado Springs, whose pastor, Ted Haggard, is the politically powerful president of the National Association of Evangelicals. "No pastor in America holds more sway with the political direction of evangelicalism than does Pastor Ted, and no church more than New Life," writes author Jeff Sharlet. Sharlet calls Colorado Springs, Pastor Ted's home base, "home to the greatest concentration of fundamentalist Christian activist groups in American history." The megachurch-saturated town is "both a last stand and a kind of utopia in the making." The second article, by journalist Chris Hedges, reports on "the new militant Christianity" espoused by the National Religious Broadcasters (NRB), an association of 1,600 fundamentalist radio and television stations who claim to reach 141 million listeners and viewers. Hedges frankly labels as "hatred" what he observed at the NRB annual convention in Anaheim recently. He writes, "This movement is a curious hybrid of fundamentalists, Pentecostals, Southern Baptists, conservative Catholics, Charismatics, and other evangelicals, all of whom are at war doctrinally but who nonetheless share a belief that America is

destined to become a Christian nation, led by Christian men who are in turn directed by God. What the disparate sects of this movement share is an obsession with political power.”

*Does God Belong in Public School?*, by Kent Greenawalt, Princeton University Press, 261 pp., \$29.95.

It is a distinct pleasure to review a balanced, fair, scholarly book on the place of religion in public schools, especially after having had to review such thoroughly awful embarrassments to their publishers as Philip Hamburger’s *Separation of Church and State* (Harvard University Press, 2002) and Daniel Dreisbach’s *Thomas Jefferson and the Wall of Separation Between Church and State* (New York University Press, 2002).

Kent Greenawalt is a distinguished professor at Columbia University School of Law, a former U.S. Deputy Solicitor General, and a recognized scholar in the field of church-state law. He admits up front that “[M]ost of the law about religion in schools could be explained by a principle that public schools should not sponsor religion; but . . . this principle, standing alone, fails to resolve many intricate issues of constitutional law and educational policy.” He notes that “Education that disregards religion may implicitly communicate its unimportance,” but adds that “no form of devotional practice is universally acceptable.”

The author essentially agrees with the Supreme Court rulings requiring public school religious neutrality, but spends most of the book showing how difficult that can sometimes be in practice and offering suggestions for maintaining the desired neutrality. He is clear that “public schools should not teach that particular religious propositions are true or false, sound or unsound” and dismisses as “misinformed or misleading” the complaint often heard from the fundamentalist right that “public schools teach secular humanism.”

Greenawalt devotes three chapters to the question of evolution and creationism in science classes. Clearly, he writes, “evolution definitely belongs in science courses, and . . . any account approximating the literal reading of Genesis does not.” He adds that “Teaching Genesis creationism is teaching religion, because the only substantial basis for believing in that account is religious. Teaching intelligent design is religious if that theory [sic] is presented as true or as the alternative to dominant evolutionary theory.” Further, “a decision not to teach evolution is also religious, because religious views are the only likely basis for exclusion.”

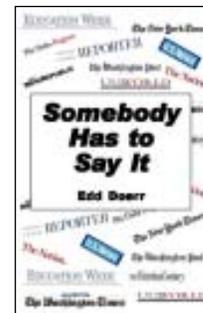
On the question of sexuality education, he states bluntly that “an abstinence-only program that omits teaching about condoms [Texas legislators take note] could be justified only on religious grounds” and would thus be improper.

As for teaching about religion, the author agrees with what I have been saying for many years: There is little agreement about precisely what or how much should be taught, and there are very few teachers trained or qualified to do so. Obviously, history, literature, and music cannot be taught without dealing with religion. At this point, unfortunately, Greenawalt does not provide adequate guidance. Yes, we have to talk about the Rev. Martin Luther King Jr. and the civil rights movement, but we should also talk about the conservative preachers who opposed the movement.

Yes, schools can present material on the constructive contributions of religions (plural), but students also need to learn about religious wars and persecutions and pogroms, about bigotry and intolerance, about progressive and regressive movements. Students also need to learn not only about past and present religions, and how they evolve/evolved, but also about nonreligious lifestances and critiques of religion.

The bottom line, of course, is that thoroughly honest, objective, balanced, fair, and inclusive teaching about religion is so difficult as to border on the impossible. Some textbooks used in the UK and Newfoundland that I have read would qualify, but I doubt they could be

*The third volume of Edd Doerr's letters-to-the-editor covers a half decade of material, from 1999 to 2004, and also includes an analysis of gender gaps in the publication of letters in three national newspapers. Included as well is an article from USA Today from 1995 on a 1974 world population report commissioned by the White House but suppressed.*



## **Somebody Has to Say It**

**Edd Doerr**

Available from ARL for \$10 plus \$1.50 shipping and handling. Send your check or money order to:

Americans for Religious Liberty  
PO Box 6656  
Silver Spring, MD 20916

adopted in very many schools in the United States. That difficulty is why American schools generally avoid the subject. Then, too, though Greenawalt does not mention this, adding even proper teaching about religion to the public school curriculum would necessitate leaving something else out. And we know that our schools are already deficient in teaching foreign languages, non-English literature, and much else besides.

Greenawalt’s book is one of the better ones I have seen on the subject, despite its few shortcomings.

—Edd Doerr

*God Under Howard: The Rise of the Religious Right in Australian Politics*, by Marion Maddox, Allen & Unwin, Crows Nest, New South Wales, 2005, 386 pp., \$27.22.

Crocodile Dundee, sunny beaches, kangaroos, and cuddly koalas present a warm, pleasant picture of Australia. But Australian political scientist Marion Maddox takes us on a tour through the strange and frightening labyrinth of politics down under. Why should Americans care about political developments in the land of Mad Max? Because Aussie Prime Minister John Howard is attached at the hip to George W. Bush, his “Liberal” (i.e., conservative) Party closely resembles our Republican Party, and the theocracy virus is spreading like an epidemic. Maddox helps us better understand our own situation in addition to revealing the weird side of Australian politics.

Howard’s government has an agenda similar to that of our GOP: opposition to abortion and voluntary euthanasia, promotion of “traditional family values,” demonization of single and gay parenting, support for the U.S. misadventure in Iraq, creationism in science classes, tax

*continued on page 20*

## Books and Culture, *continued from page 19*

support for faith-based schools and charities, opposition to labor unions and labor rights, indifference to indigenous people, increasing trends toward theocratic government (inspired by Americans Pat Robertson, Ralph Reed, James Dobson, etc.), and dislike for judicial review.

Maddox's book is temperate, thorough, well documented (679 endnotes). She opens by quoting Machiavelli that a prince, or politician, "should appear [to be] a man of compassion, a man of good faith, a man of integrity, a kind and religious man. And there is nothing so important as to seem to have this last quality." Sound familiar?

She writes that "Techniques honed by the American religious right have proved invaluable to Howard's sales pitch, while carefully avoiding the zealously religious language likely to alienate Australia's much more secular population." About 9% of Aussies attend church weekly, compared to three or four times that many in the United States. She adds that "The unusual prominence of religion in the 2004 election campaign [in which Howard was reelected to a fourth term], which many commentators saw as a novelty, was actually just the latest act of a drama that had been unfolding on the conservative side of politics for over a decade."

Maddox writes that attention paid to "constitutional questions of church-state separation" was sparse compared to similar debates in the U.S. She notes that Section 116 of the Australian constitution was copied from the U.S. First Amendment by their constitution writers in 1900, but, curiously, she leaves out some important background. The attack on government-religion separation did not begin with this generation's religious right but with Catholic Church officials after World War II. As Australian political scientist Tom Truman showed in his 1960 book *Catholic Action in Politics* (Merlin Press, London), "The most eagerly sought political objective of the Catholic Church in Australia is state subsidies for the Catholic education system," a goal it pursued by manipulating Australia's preferential voting system, weakening the Australian Labor Party by splitting off a faction called the Democratic Labor Party. The DLP disappeared after federal aid began flowing to faith-based schools.

### *The Separation of Church and State*

Edited by Forrest Church

*In this attractive pocket-sized, readable book, Church pulls together, with useful commentary, the more important writings of the Founders that show clearly that they intended our system of government to incorporate the principle of separation of church and state.*

Available from ARL for \$16.00 plus \$2.00 shipping and handling. Send your check or money order to:

Americans for Religious Liberty  
PO Box 6656  
Silver Spring, MD 20916

In the 1970s the late American church-state expert Leo Pfeffer and I helped the Australian group Defence of Government Schools (D.O.G.S.) take a challenge to Australia's High Court, using Section 116, analogous to our First Amendment. Unfortunately, we lost in 1981. Justice Lionel Murphy's brilliant dissent defending church-state separation may be found in *Lionel Murphy: The Rule of Law*, edited by Jean and Richard Ely (Akron Press, Sidney, 1986). Since then Australia has been deprived of the protections still available to Americans, until and if, that is, President Bush adds a couple more Scalias and Thomases to our Supreme Court.

To return to Maddox, she writes that in 2003 Howard "responded to no particular domestic issue but to clarion calls from Rome and Washington by declaring that 'marriage as we understand it is one of the bedrock institutions of our society'," meaning "traditional Christian marriage." She adds that while Bush "has a well-honed version which includes dropping lines from hymns and Bible verses into his speeches so that, to those who recognize the allusions, they convey an additional body of information inaudible to other hearers." Howard, however, can't use the same gimmick with Australia's more secular population, but manages to accomplish the same thing "below the secular radar by using terms that carry a religious inflection."

Further, while Aussies may be more secular, they "are often willing to see religion as desirable for other people." Politicians "encourage a sympathetic alternative . . . American-style evangelical and Pentecostal churches," like former A.G. John Ashcroft's Assemblies of God, plus such groups as the ultraconservative Catholic group Opus Dei.

Howard is especially keen on the new tax-supported fundamentalist and evangelical private schools that are very much like their U.S. counterparts. "Howard and his government [go] to extraordinary lengths to blur the lines between church and state, building church agencies into their own structures. The welfare system [is] its front line."

At the core of Aussie religious right thinking is Pat Robertson-style Dominionism and Reconstructionism, the drive to replace democracy with theocracy. And one of the first steps on the winding road to theocracy is the seemingly innocuous National Days of Prayer, started in the U.S. in 1952. (A useful analysis of NDPs was published on line in May 2005 by the Texas Freedom Network ([www.tfn.org](http://www.tfn.org)).

Just as a dangerous fundamentalism is feeling its cheerios in the Muslim world, so too a different but no less virulent form of fundamentalism is spreading in and from the U.S. to other countries. Friends of democracy, religious freedom, and church-state separation have their work cut out for them. Marion Maddox's five-star book will be useful to both Yanks and Aussies.

—Edd Doerr

*Creationism's Trojan Horse: The Wedge of Intelligent Design*, by Barbara Forrest and Paul Gross, Oxford University Press, 401 pp., \$40.00.

Forrest and Gross examine the "intelligent design movement" in clinical detail, showing that it is a movement, not a burgeoning scientific breakthrough or alternative to modern evolutionary theory. They expose it as a front for creationism, albeit one dressed up with more public relations sophistication than the "scientific creationism" it superficially supplants. It eschews open religious references and maintains that the Universe is too complex to have natural explanation – that it requires an "intelligent designer" whom advocates coyly do not reveal.

However, one of the movement's leaders, retired UC-Berkeley law professor Phillip Johnson, writes candidly about using a "Wedge Strategy" to break down the wall of separation between church and state. (He maintains that this separation is a modern myth, and that it is important to get God and Jesus into the public schools, bemoaning the need to do it surreptitiously.) Another leading I.D. advocate, Jonathan Wells, was graduated from Rev. Moon's college with a pledge to devote

his life to destroying Darwinism; he has since earned a Berkeley Ph.D. in biochemistry. He is typical of the small band of I.D. leaders in having legitimate, non-mail-order degrees.

I.D. seems to boil down to using the “Wedge Strategy” to attack evolution according to an agenda once apparently posted at the Discovery Institute website but since removed (but echoed by Johnson and others). The strategy has been to claim an intellectual position by publishing popular books and articles, inundating the press with a publicity campaign, and gaining a foothold in academia with the above tactics. Note that there is no specific research component to this basically PR-based strategy. They hope that enough smoke will prove there is fire.

The authors trace I.D.’s history to the “scientific creation” movement and back to the “argument from design” advanced by Bishop Paley in the 1820s. Paley credited God, while, at least in public, the I.D. folks stress that the designer is unknown. (Some more open creationists consider this dishonest or heretical, so the Institute for Creation Research, for example, is a nervous ally, at best!)

I.D. rests on a claim that is either arrogant or embarrassing – “There are processes or things I cannot explain, so therefore they are unexplainable by natural science, so a secret ‘designer’ did it.” Can’t they see that God or nature may do some things we do not understand *yet*? A theology based on what we cannot explain is ever-shrinking because as we learn more, this “God of the gaps” grows smaller each day.

Forrest and Gross devote much of their book to exposing the political rather than scientific nature of the I.D. movement. They explore the

*It is constitutionally impermissible to teach religion in guise of science in the public schools.*

— J. Brent Walker, Executive Director, Baptist Joint Committee on Religious Liberty, *Report from the Capital*, March 2005.

way I.D. is promoted by its virtual headquarters, Seattle-based Discovery Institute. They explore the political and fiscal links to various religious right and new right people, ideas and factions. They also show connections to the shadowy world of Christian Reconstructionism which openly advocates theocracy for the United States. The DI wing devoted to I.D. is largely financed by Howard Ahmanson and his Fieldstead Company – also a supporter of the Rushdoony Chalcedon Institute (a leading advocate of Christian Dominion over American government). He also funds a number of other New Right efforts involving active politicians, evangelists, fundraisers, and military and conservative academic figures. A son and heir of a man whose Ahmanson Foundation is a leading supporter of scientific and environmental research, young Howard seems to have rebelled in the extreme.

I.D. is a “science” with no research agenda, testable claims, peer-reviewed articles, or any apparent serious ideas except that “Darwin was wrong.” Instead, as headlines demonstrate, this ersatz I.D. “science” appeals basically to popular (often religious) sentiments, politicians, school boards, journalists and textbook committees. Dogmatically de-

## Much to Learn from Newfoundland

With regard to “Friendly Fire,” Heatherjane Robertson’s November In Canada column, it is clear that we in the U.S. can learn much from our neighbors to the north, whose inhabitants are sometimes referred to as “English-speaking Scandinavians.”

The case of Newfoundland/Labrador, in area about the size of Washington and Oregon combined and in population similar to Vermont, is an interesting one. The province had no public schools, only several groups of tax-supported faith-based schools that reportedly constituted the worst school system in Canada. Then in the mid-1990s, the province’s voters decided by a 3-to-1 margin to scrap the old system and convert to U.S.-style religiously neutral public schools. In essence, Newfoundland/Labrador once had a sort of universal voucher plan, the kind of idea that some conservatives and sectarian special interests are working feverishly to promote here in the U.S., despite being repeatedly rebuffed at the ballot box. Will Americans profit from Newfoundland’s experience?

Having converted rapidly to a public school system, Newfoundland/Labrador then moved to create curricula for teaching “about” religion in a fair, inclusive, and balanced way. A series of texts for grades 4-6 -- “Journeys,” “Directions,” and “Horizons” -- introduce children through age-appropriate narratives to Christianity, Judaism, Islam, Jainism, Buddhism, Sikhism, Baha’i, and aboriginal Canadian religions. *Who Am I?* and *My Place in the World*, the eighth- and ninth-grade texts (I haven’t seen the seventh-grade text), move on to sophisticated discussions of social and ethical problems and how different religious traditions, including the “unchurched,” deal with them. Among the topics covered are how values and personal identity develop; friendship, love, commitment, and sexuality; HIV and AIDS; social justice; racism; culture shock; immigration; the environment and ecology; changing moral standards, science, and

religion; cloning and in-vitro fertilization; interfaith dialogue; and globalization.

These texts, from one of Canada’s poorest and most sparsely populated provinces, could be profitably emulated in the U.S. Needless to say, they are undoubtedly too sophisticated and “liberal” to ever be adopted in many of our states. Yes, there is much to be learned from our Canadian friends.

-- Edd Doerr, president, Americans for Religious Liberty, *Phi Delta Kappan*, March 2005.

## Established Science vs. Philosophical Speculation

Christopher Gieschen’s rather confused letter (“Approach to Evolution Depends on ‘Worldview,’” Letters, Jan. 5, 2005) suggests something like parity between evolution, which is well-established science, and “intelligent design” creationism, which is almost entirely religious or philosophical speculation/opinion, lacking any scientific support.

Students and adults are free to accept scientific conclusions or to prefer any of a wide variety of nonscientific religious explanations of natural phenomena or, as a very great many do, to accept science and accommodate their religious views to the conclusions of science. But what public schools may not do, as the U.S. Supreme Court made clear in 1987, is mix religious explanations into science classes.

-- Edd Doerr, president, Americans for Religious Liberty, *Education Week*, January 19, 2005.

## Books and Culture, *continued from page 21*

claring the Universe too complicated to have naturalistic explanations, believers with pre-determined conclusions search for fragments of support more like amateur theologians or high school debaters than scientists.

—John R. Cole

*John Cole holds a Ph.D. in anthropology from Columbia University and is a member of the board of the National Committee for Science Education.*

**Holy Cross: The Untold Story**, by Anne Cadwallader, The Brehon Press, Belfast, 317 pp. \$24.95, available from Irish Books and Media in Minneapolis, 1-800-229-3505.

Long-time journalist Cadwallader ably tells the appalling story of a Catholic elementary school in North Belfast that was repeatedly attacked by Protestant mobs in 2001. Even without all the progress made in Northern Ireland since the Belfast agreement was signed in 1998, an occasional backlash by embittered and disillusioned loyalists and Orange zealots puts the “peace process” at risk. Writes the author, “Can sectarianism be defeated by merely hoping it will go away? Does confronting it head on only escalate problems? The record shows that trying to appease sectarianism by ignoring it or refraining from giving it a name is ineffective.” She blames political and religious leaders for allowing the incident to drag on for 12 weeks, thus holding the parents and children “ransom to preserve the peace process.” She says that politicians, including Prime Minister Tony Blair, simply don’t care about the people caught in the crossfire of animosity but are more concerned with their images on the national and international stages. Northern Ireland has made steady progress toward interfaith harmony but pockets of resistance remain. North Belfast, where one out of five of the deaths (600 of 3,000) in the thirty-year communal conflict called euphemistically “The Troubles,” remains one such backwater.

—Al Menendez

**John Jay: Founding Father**, by Walter Stahr, Hambledon and London, 482 pp. \$29.95.

The first comprehensive biography of one of our forgotten founding fathers in seventy years is a winner. This is a meticulous and cautiously written examination of the man who was the first Chief Justice of the United States, delegate to the Continental Congress and later President of the Congress, governor of New York, and U.S. diplomat to

“The lessons of history tell us little about the ideal relationship between church and state, but they are relatively clear about the worst relationship: When the state establishes one particular religion and backs the religious ideology of that church with the military, police, and economic power of the government, this relationship corrupts religion and denies citizens freedom of conscience and the free exercise of religious choice. The results have been crusades, inquisitions, and state-sponsored religious terrorism. . . .

“Whatever the ideal relationship might be between religion and government in a utopian world, experience has shown that no religion should ever be empowered to enforce its doctrines through the military force of the state.”

—Alan Dershowitz, *Rights from Wrongs: A Secular Theory of the Origins of Rights* (New York: Basic Books, 2005, pp. 183, 185).

## Scientists Support Theory of Evolution

The writer of the letter “Many scientists still skeptical about evolution” (Dec. 27) is wrong in saying that there is significant disagreement among qualified scientists as to the feasibility of the theory of evolution.

There is virtually no disagreement. The National Academy of Sciences, the American Anthropological Association, the American Association for the Advancement of Science, the American Chemical Society, the American Geological Institute, the American Physical Society, the American Society of Biological Chemists and the National Association of Biology Teachers are among the many top science organizations that agree that evolution is a well-established central principle of science.

As the National Academy of Sciences has put it, “It is . . . our unequivocal conclusion that creationism, with its account of the origin of life by supernatural means, is not science. It subordinates science to statements based on authority and revelation. . . . No body of beliefs that has its origin in doctrinal material rather than scientific observation should be admissible as science in any science course.”

Religion and science need not compete on the same ground, and all people are free to believe as they please.

But in the field of education, theology cannot be allowed to trump science.

—Edd Doerr, president, Americans for Religious Liberty, *Baltimore Sun*, January 15, 2005.

France, England and Spain. Jay also held the post of Secretary for Foreign Affairs from 1784 to 1790.

Jay negotiated the treaty that ended the war for independence, along with John Adams and Benjamin Franklin, and later negotiated the first commercial treaty with Britain. He played a role in the development and ratification of the U.S. Constitution. A leading member of the Federalist Party, he was a close friend and adviser to Washington, Adams and Hamilton.

He was an evangelical Episcopalian and an enthusiastic supporter of the American Bible Society. Jay was also involved in early meetings which separated the American Episcopal Church from the Church of England, while retaining the spiritual, sacramental and cultural connections.

Jay had one blind spot, an anti-Catholic animus, stemming from his French Huguenot heritage. As a result, he tried to eliminate Catholics from the religious liberty provisions of the New York State and federal constitutions unless they agreed to an oath renouncing all allegiances to foreign potentates, ecclesiastical or civil. He was constantly rebuffed by his fellow lawmakers, which has proved essential to the development of American pluralism.

Jay fought hard for the ratification of the Constitution. John Adams wrote 20 years later that Jay was “of more importance than any of the rest, indeed of almost as much weight as the rest.” Another contribution is cited by Stahr. Jay “helped form the consensus that strong national government was necessary; he provided several key concepts, such as the supremacy of national laws.”

Jay was the first Chief Justice at a time when the newly established Supreme Court had a very limited role. Therefore, he thought nothing of resigning to pursue other interests, first as envoy extraordinary to England and then as Governor of New York. (The Supreme Court was not seen as a lifetime appointment or as the culmination of one’s public career in the 1790s!)

## Join Americans for Religious Liberty!

PO Box 6656, Silver Spring, MD 20916

I want to do my part to help Americans for Religious Liberty halt the threats to religious, intellectual and personal freedom.

This is a:  Renewal  New Membership  Extra Donation

- \$25 Individual  \$50 Sustaining  \$500 Sponsoring  
 \$35 Family  \$100 Supporting  \$1000 Patron  
 \$15 Student and Low Income

Enclosed is my/our check for \$\_\_\_\_\_.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Contributions to ARL are tax-deductible. The ARL newsletter is sent to all contributors.

Writes Stahr, "When scholars rank the justices of the Supreme Court, Jay is generally rated average or good but only rarely great. There are several reasons for this. He did not write many opinions, both because the early Court did not have many cases on its docket, and because the Court often resolved cases without opinions. His one major opinion, in the Chisholm case, was soon overturned by constitutional amendment, a rare rebuke for the Supreme Court."

— *Al Menendez*

*The American Catholic Voter*, by George J. Marlin, St Augustine's Press, South Bend, Indiana, 400 pp., \$29.95.

According to Marlin, "For most of our country's history the Catholic bloc has been a pivotal swing vote that determines outcomes in numerous national, state and local elections." So far, so good. But his history and analyses are deeply flawed. He fails to use standard sources of voting behavior – the Gallup Poll in particular – and has apparently never heard of the National Opinion Research Center at the University of Chicago or the Survey Research Center of the University of Michigan, which have tons of historic voting material related to religious identification. That is part of the problem. Marlin is neither a historian nor a political scientist. He is not a journalist specializing in political or religious history. He is a wealthy Republican businessman living in a posh Long Island suburb as well as a one-time Conservative Party candidate for mayor of New York City.

He claims that Catholics are culture issue voters, not economic issue voters, a view rejected by most historians. "The Catholic faithful have united to defend their political turf – their parishes and neighborhoods – and have tried to fend off political assaults from nativists, progressives, eugenicists and reformers." He also charges that the Democratic Party's "leadership frowns upon Catholic values." Finally, he says that only 9% of all voters are "practicing Catholics," apparently ignoring the Catholic voters who don't fit his rigid definition of Catholicism.

Disappointing is the best descriptive adjective for a book that is riddled with factual errors and unsupportable conclusions.

— *Al Menendez*

*A Catholic in the White House? Religion, Politics and John F. Kennedy's Presidential Campaign*, by Thomas J. Carty, Palgrave Macmillan, 215 pp., \$39.95.

The presidential campaign of 1960 is noticeable, historically, for the torrent of religious animosity and abuse aimed at Democratic nominee Senator John F. Kennedy because he was a Catholic. Some historians

and political scientists view that election as the last gasp of the Protestant-Catholic discord that stretched from the Reformation until the relative triumph of ecumenism in the 1960s. Despite the negative aspects of the Kennedy-Nixon election, there was a healthy debate over the role of church and state in U.S. politics and public policy, the parameters that properly separate religion and government and the role of public officials in setting the tone for civil discourse. In that debate, those elements committed to greater pluralism and tolerance were the victors. And, for a season at least, separation of church and state was strengthened, as was the concept of a secular government and the final ratification by voters of a nearly two-century-old ban on religious tests for public office. (That revolutionary doctrine, embedded in Article 6 of the federal Constitution, was often ignored or rejected in practice.)

The story of that dramatic moment in our history is ably retold by a young historian in this book. The author reviews the role of Catholicism in U.S. political history, defines the religious issues as they were articulated by the parties, candidates and by church groups which made Kennedy's religion a defining wedge issue for many voters. He also looks at the vote in detail in Georgia, Michigan, California and New York, where the religious issue, he argues, affected the outcome. Other states probably would have been better source material, however, such as Pennsylvania, Wisconsin, Oklahoma, Tennessee, Kentucky, and Missouri, where religion upsets traditional voting patterns. A brief recap of events relative to Catholics and U.S. politics since 1960 brings the book to a close.

Carty writes, "While Kennedy's election proved that anti-Catholicism could be overcome, Catholic presidential aspirants encounter challenges from the church's clerical hierarchy to uphold doctrinal principles in political decisions." He adds that "Kennedy's model – maintaining independence from clerical pressures without alienating Catholics – proved critical to his election."

— *Al Menendez*

*Religion and Public Life in the Midwest*, edited by Philip Barlow and Mark Silk, AltaMira Press, 254 pp., \$24.95.

America's Midwest, perhaps the most difficult region to define – and even to locate geographically – shows some unique characteristics concerning the influence of religion on politics and public policy. For one thing, the "historic mainline" churches (Lutheran, Methodist, Presbyterian) are stronger in this region than anywhere else in the U.S., edging out Catholics, 25% to 24%, on religious self-identification sur-

*continued on page 20*



Americans for Religious Liberty

PO Box 6656

Silver Spring, MD 20916

NONPROFIT ORG.  
U.S. POSTAGE  
PAID  
SOUTHERN, MD  
PERMIT NO. 4820

RETURN SERVICE REQUESTED

## Books and Culture, *continued from page 23*

veys. Baptists and other somewhat conservative Protestants are also a quarter of the population, while one-fifth of Midwesterners have no religious affiliations (41% of the population, however, are not affiliated with any congregations, revealing the usual high percentage of “lapsed” adherents, even in the Heartland).

Full chapters are devoted to this region’s Big Three, Lutherans, Methodists, and Catholics. All have had significant political influence on Midwestern politics, and all three reflect the dominant ethnic ancestry groups, Germans and Scandinavians. The region’s evangelicals are often of Dutch ancestry or are descendants of migrants from the Southern U.S. (especially in Illinois, Ohio, Indiana and Kansas). While still imbued with a small town/rural ethos, the Midwest, as these authors define it, includes such big cities as Chicago, Detroit, Cleveland, Indianapolis, and Minneapolis-St. Paul, not to mention their bustling suburbs.

Even within the Midwest, there are distinct subregions. The Great Lakes (Illinois, Ohio, Michigan, Wisconsin, Minnesota) subregion is the most heavily Catholic. The Plains States (Iowa, Nebraska, Kansas, the Dakotas) are the most Lutheran and Methodist.

Then, there is the “anomaly” of Indiana, “the least Catholic state in the entire Midwest region,” according to Notre Dame historian Jay P. Dolan. Since the New Deal the most Protestant states have been the most Republican.

What are the overall demographic trends in this surprisingly complex and diverse region? Historian Mark Noll writes, “Proprietary Protestantism, especially in its Methodist form, continues to decline, while sectarian Protestantism rises in strength but not at a rate to come even close to displacing the Catholic and Lutheran churches as the predominant religious families in the region.” (Proprietary Protestants are the churches of civic prestige that shape the culture.)

These essays help to explain the dynamics of the religious vote in the Midwest, the closely-divided region where control of the White House and Congress is likely to be decided in the near future.

—Al Menendez

*With God on Their Side: How Christian Fundamentalists Trampled Science, Policy and Democracy in George W. Bush’s White House*, by Esther Kaplan, The New Press, 322 pp., \$24.95.

This passionately argued and carefully documented volume was released just before the last election, and it remains a good survey of the church-state policies of the first Bush administration. Journalist Esther

### Filibuster Needed to Restore Fairness

Your editorial on the filibuster overlooked the fact that while American voters are split almost exactly 50/50 between Democrats and Republicans, thanks to the way the Constitution set up the Senate so that small states could balanced large states, Republicans have 55 seats. In an imperfect world, then, the filibuster of judicial appointments is a form of check and balance.

Since President Bush has made no effort to get the Democrats’ advice, which represents half of the voters, it is legitimate for Senate Democrats to use the instrument of the filibuster to keep some semblance of balance in our government. If the shoe were on the other foot, the Republicans would surely do the same.

A president who came into office in 2000 as a minority candidate should be gracious enough to be less partisan and divisive.

-- Edd Doerr, *The Washington Examiner*, May 4, 2005.

Kaplan says her book “asks what impact the Christian right, as a dogma-driven political movement, has had in dictating American policy.” She finds its influence to be stunning and far-reaching in many areas of domestic policy. “A climate of fear prevails in Washington today,” she believes, with considerable justification.

The author argues that, “The Christian Right has matured strategically and ideologically,” making it even more dangerous and effective. She says bluntly, “The Christian right movement, as a whole is not enamored of democracy, if democracy leads away from their biblical values, and they have found in George W. Bush a sympathizer.” In fact, “When George W. Bush became president, he provided the movement with a new leader, a moral center, unprecedented access in Washington, millions of dollars in federal grants, and, most importantly, a string of important wins.”

Kaplan’s book will go a long way in explaining such recent events as the extraordinary Palm Sunday session of Congress devoted to a private family tragedy in Florida, complete with a U.S. president’s flight from Texas to Washington, DC in the wee hours of the morning to sign the emergency legislation authorizing federal court intervention in the Terri Schiavo case, and the mounting political battle over federal court appointments. She concludes, “Our governing Republican Party is unmistakably in the grips of its own Christian theocratic base. We are all, in broad strokes, aware of this relationship, but there has so far been too little public debate about its corrosive effects on our democracy.”

—Al Menendez