

REPORT FROM THE CAPITAL



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NewsMakers

◆ **Helen Thomas**, a veteran White House reporter, questioned President George W. Bush's respect for the separation of church and state at a recent press conference. "Why do you refuse to respect the wall between the church and state?" Thomas asked. Bush responded, "Helen, I strongly respect the separation of church and state," as Thomas interjected, "Well, you wouldn't have a religious office in the White House if you did."

◆ **Lynn Bergfalk**, BJC board member and former pastor of Calvary Baptist Church in Washington, D.C., said that as the director of the church's social service arm, he could say yes to government funding with certain caveats. "But as a pastor of a church, I think I would still have to say no," Bergfalk said at an event sponsored by Pew Charitable Trusts, the American Jewish Committee and the Feinstein Center for American Jewish History to introduce a statement on "charitable choice."

◆ **Phil Veitch**, a former chaplain with the U.S. Navy, says that military supervisors discriminated against him for theological reasons. He has filed suit in federal court seeking to be reinstated. Veitch claims he was accused of preaching non-pluralism and forced to resign because he refused to stop preaching about his conservative Christian beliefs. ▲

High court weighs arguments over access to school buildings

The Supreme Court heard arguments Feb. 28 over whether a Christian youth organization should be allowed to meet immediately after school in an upstate New York public school.

While past high court rulings upheld religious groups' use of school facilities to discuss secular topics from a religious perspective, this case raises new questions.

In 1996, the Good News Club — affiliated with a Christian missionary organization known as Child Evangelism Fellowship — applied to use the school's facilities to have "a fun time of singing songs, hearing [a] Bible lesson and memorizing Scripture."

The Milford Board of Education denied the application after concluding that the proposed activities were not merely discussion of secular subjects from a religious perspective, but "were in fact the equivalent of religious instruction itself."

The club challenged the denial, but a trial court and the 2nd U.S. Circuit Court of Appeals sided with the school.

School district attorney Frank Miller told justices that activities of the Good News Club amount to religious worship, which is not allowed under district policy. "We have the school in effect utilized as a church," Miller said.

But the club's attorney, Thomas Marcelle, asked why other groups that teach moral instruction, such as the 4-H Club and the Boy Scouts, may use the school while the Christian group cannot.

"This is a free speech case," Marcelle said. "We're not asking for unique access,

just equal access." He said the only children who attend are those whose parents have sent them.

Justices spent a lot of time discussing what constitutes "religious worship."

Justice David Souter said the program appears to be religious worship similar to a "Sunday school" class.

But Justice Antonin Scalia said, it is "a great distortion" to call "teaching what the Scripture has to say about morality" religious worship, "even if you do throw in a prayer or two."

Chief Justice William Rehnquist agreed, saying, "It certainly isn't religious worship in the way most people would think of it."

Other justices were troubled by the age of the children involved.

"Isn't the nub of the matter in this case that you're not dealing with college students, you're dealing with grade-school students?" Souter asked. In this case, he said, the students are not mature enough to know the school is not endorsing the religion.

Addressing reporters after the argument, Baptist Joint Committee Executive Director Brent Walker criticized the 2nd Circuit's distinction between discussion of secular topics from a religious perspective, which is permitted, and religious instruction and worship, which is not.

"The free speech and free exercise rights of students should not turn on such dubious hairsplitting," Walker said. "The government is uniquely ill-suited to sit as a secular high priest making razor-thin theological distinctions." ▲



Brent Walker talks with reporters at high court.

Davis: 'Charitable choice' could harm religion

"Charitable choice" initiatives could in the long run be "devastating" to the voluntary nature of American religion, says a Baptist church-state scholar.

Many critics of proposals to allow government funding of pervasively religious social ministries say such plans violate the separation of church and state. But Derek Davis, director of the J. M. Dawson Institute of Church-State Studies at Baylor University in Waco, Texas, warned recently that "charitable choice" could also undermine the vibrancy of voluntary religious practice.

"Over time, we are going to destroy the dynamic character of religion in America," Davis said at a recent conference. "The voluntary spirit is going to die."

Davis, special counsel at the Baptist Joint Committee, spoke at the annual conference of the Texas Baptist Christian Life Commission in Austin.

Davis said the United States doesn't have a "pure" separation of church and state, but that an "institutional" separation "has been fundamental" to the nation's history. Americans traditionally resist the use of government to advance sectarian religion or to "prop up" values not commonly shared by the general population, he said. Δ

Baptist leaders issue statement opposing 'faith-based' plan

Baptist leaders have issued a statement urging the rejection of President George W. Bush's plan "to shift tax dollars to houses of worship to subsidize social ministries."

"President Bush is trying to do the right thing," the statement, signed by 14 individuals, declares. "All of us should applaud his recognition of religion's vital and helpful role in addressing pressing social problems. But when it comes to his call for 'charitable choice,' we must say no."

"We oppose charitable choice not because we want to discourage the delivery of faith-based services, but precisely because of our religious convictions and desire to maintain religious freedom."

The group stated that the proposals "are made worse" by the creation of an Office of Faith-Based and Community Initiatives, "designed to facilitate the dumping of billions of dollars on churches and other pervasively religious ministries."

"For Baptists and all lovers of freedom, alarm bells go off when government creates an office in charge of religion," the Baptist leaders said.

"We all want to do what is right, but in the right way."

Signing the statement were Jimmy Allen, past president of the Southern Baptist Convention; Patricia Ayres, a member of First Baptist Church in Austin, Texas; Grady Cothen, past president of the Southern Baptist Sunday School Board; James M. Dunn, visiting professor at Wake Forest Divinity School and president of the BJC Endowment; Stan Hastey, executive director of the Alliance of Baptists; Bill Leonard, dean of the Wake Forest Divinity School; Robert Maddox, pastor of Briggs Memorial Baptist Church in Bethesda, Md; William and Dellanna O'Brien, co-directors of BellMitra Associates; Keith Parks, retired global missions coordinator of the Cooperative Baptist Fellowship; R.G. Puckett, editor emeritus of the state Baptist newspaper of North Carolina, the *Biblical Recorder*; Gardner Taylor, pastor emeritus of Concord Baptist Church in Brooklyn, N.Y.; Foy Valentine, former director of the Southern Baptist Christian Life Commission; and Brent Walker, executive director of the Baptist Joint Committee. Δ

Bush outlines broad agenda in first address to Congress

In his first address to a joint session of Congress, President George W. Bush out-

lined a vision for a government that "should be active, but limited, engaged, but not overbearing."

The 50-minute nationally televised speech drew applause from both parties at times but at others showed the uphill battle awaiting some Bush proposals.

Of particular interest to people of faith is the president's faith-based initiative, which he discussed for roughly five minutes of the speech.

"We must encourage and support the work of charities and faith-based and community groups that offer help and love one person at a time," Bush said.

He drew applause primarily from Democrats when he said, "Government should not fund religious activities." But mostly Republicans stood and cheered for the next line: "But our nation should support the good works of these good people who are helping neighbors in need."

Bush also touted his plan to allow all taxpayers — including those who do not itemize — the ability to deduct charitable gifts from their taxable income.

Bush also promoted school-choice plans and character education. "Values are important," he said, "so we have tripled funding for character education to teach our children not only reading and writing, but right from wrong." Δ

Groups agree to disagree in 'charitable choice' statement

Groups on opposite sides of the debate over whether to provide tax dollars to religious ministries issued a joint statement on Feb. 27 listing points of agreement and disagreement over "charitable choice."

The statement followed more than a year of discussions convened by the American Jewish Committee and the Feinstein Center for American Jewish History at Temple University. Melissa Rogers, former Baptist Joint Committee general counsel, was one of 14 drafters of the statement.

The document — "In Good Faith: A Dialogue on Government Funding of Faith-based Social Services" — includes a list of nine non-financial ways government can support faith-based groups and 12 areas of agreement between the groups concerning government funding of certain religious organizations to provide social services.

The signers said groups in the discussion "remain deeply divided about 'charitable choice.'" The document includes a section supporting "charitable choice" and one opposed to it. Δ

Religious free speech is one thing; government-funded religion another



Mandy Tyler
Assistant to the
General Counsel

At the Feb. 28 oral argument in *Good News Club vs. Milford Central School*, the nine members of the U.S. Supreme Court took a break from interpreting the law to engage in a complex theological discussion. They asked difficult questions

such as: What is worship? What is prayer? When does a religious point of view become religious content itself? With all due respect to these nine distinguished jurists, I don't particularly trust them in matters of theology.

In this case, the court considers the question of whether a public school may open its doors to private community groups such as the Girl Scouts and the 4-H Club to engage in moral instruction but ban religious groups engaging in the same activity from using the premises. The Baptist Joint Committee joined other religious groups in a friend-of-the-court brief to say no. The school cannot exclude the religious club because the religion and speech clauses of the First Amendment forbid it.

Justice Breyer got to the heart of the case when he questioned the constitutionality of singling out religion for exclusion from the school. The First Amendment seems to matter little if all voices but religious ones are welcomed in public. And as the children's song "This Little Light of Mine" teaches, religion seems to matter little if it must be hidden away, out of sight and mind.

During the argument, justices provided a clinical demonstration on the problems with excessive governmental entanglement with religion. One exchange involved a debate over whether the Good News Club was more like a Sunday school class or a worship service, based on the age and religious maturity of the children present. Such a nuanced discussion is better held in a seminary classroom than in a courtroom.

Justices Ginsburg, Souter and Stevens showed some concern about whether the

school's housing of the Good News Club translated into government endorsement of the religious speech in violation of the Establishment Clause. Particularly, they worried about the timing of the club — immediately after the school day ended at 3 p.m. — and about the age of the children involved — between 5 and 12.

These fears, though sensitive and real, are unfounded. As the court has written in the past, "There is a crucial difference between *government* speech endorsing religion, which the Establishment Clause forbids, and *private* speech endorsing religion, which the Free Speech and Free Exercise Clauses protect." The Good News Club is engaging in private, protected religious speech. The government is only providing the venue, not the audience or other support, to the club, and it does the same for other private groups.

Now imagine if the government paid for some of the activities of the Good News Club such as crayons and the construction paper. Would the interpretation of the case be different? Sure it would. Once the government gets involved in funding the club, the speech becomes government-financed religious speech, not private religious speech. Suddenly, the questions about the nature of the program and the impressionability of the children present become relevant. The excessive entanglement between government and religion also becomes unavoidable.

This fact scenario is not merely hypothetical. The U.S. Senate soon may consider adding "charitable choice" to the Elementary and Secondary Education Act, allowing pervasively religious organizations to compete with other community groups for government money to provide after-school programs. If this provision becomes law, the Good News Club could apply for a grant to run an after-school program.

It appears the Good News Club stands a good chance of winning the current Supreme Court case. Whether a government-funded Good News Club would win a Supreme Court challenge is an entirely different matter. Δ

Religious right, secularists called threats to liberty

Radical religion and the radical Enlightenment were the primary forces to establish religious liberty in America, says historian Edwin Gaustad. Today, he said, a similarly unlikely pairing of the religious right and strong secularism poses its greatest threat.

Gaustad, professor emeritus of history at the University of California at Riverside, spoke at the statewide conference of the Texas Baptist Christian Life Commission in Austin.

It was first the "radical" religionists such as Baptists and Quakers and later "radical Enlightenment" proponents such as Thomas Jefferson and James Madison who birthed religious freedom in the New World, Gaustad maintained.

He said commitment to religious liberty for all and to the advancement of personal religious beliefs is lost both on today's religious right and secularists. Members of the religious right — like their Puritan forebears — want liberty only for themselves. And strict secularists are indifferent to religion because they find it irrelevant.

"With the Bill of Rights, the voluntary principle became the way of life for religion in America," he said. But that principle and the separation of church and state have been "going downhill" in recent days, he lamented. Citing in particular "charitable choice" initiatives, Gaustad said he sees too many churches demonstrating a "readiness to become a department of the government." Δ

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J. Brent Walker
Executive Director
Larry Chesser
Editor
Jeff Huett

Associate Editor
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Lieberman calls for respect for religions, not mere tolerance

Citing what he believes is a "new spiritual awakening" in America, Sen. Joseph Lieberman, D-Conn., said a growing respect is emerging for the "multiplicity" of faiths that, unlike previous revivals, is not merely an expression of tolerance.

Lieberman made this observation at the March 1 project launch of the Pew Forum on Religion and Public Life.

Lieberman, the first Jewish candidate to run on a major party presidential ticket, referred to a recent Public Agenda survey that found most people who wanted religion to play a larger role in the public square are keenly aware of the consequences of doing so.

"It suggests that pushing out the boundaries between church and state to pull the best forces of faith into our public life need not become a pitched, Promethean struggle," Lieberman said.

Lieberman offered qualified praise for President George W. Bush's proposed faith-based initiatives that would make pervasively religious organizations able to compete for billions of tax dollars.

"I think the president has made a convincing case for the constructive contributions that faith-based groups can make to meeting real social needs," he said.

However, he raised questions about how religious groups will be selected to receive funds, the problem of discrimination in hiring in federally funded projects and the church-state issues involved in funding pervasively religious groups.

In a panel discussion that followed,

Rabbi David Saperstein, director of the Religious Action Center of Reform Judaism, said that religion has always been a part of American life. During political campaigns, Saperstein said, discussions of religion "can help explain who candidates are and what they are about." He said candidates should express their opinions on religious policy debates and let the public know how their own religion will inform their policy views.

Saperstein warned, however, against legislators supporting or opposing legislation solely on religious grounds. He also said legislators and candidates for office should minimize their use of divisive religious language.

"As long as it's not a political tool then religion in public and government life should not be feared," Saperstein said.

Rep. Chet Edwards, D-Texas, said the issue should be whether religion should be kept out of government, but instead, whether government

should be kept out of religion.

"God was left out of the U.S. Constitution by intention, not by mistake," Edwards said. "Madison and Jefferson understood that politicians could not resist the temptation to use religion for their own benefit."

The panelists also discussed Bush's faith-based plans. Rep. Mark Souder, R-Ind., said "charitable choice" initiatives are a way "to get passionate people involved in the government process." He said the program is targeted at faith-based groups who are not part of the "traditional structure" and may not be experienced in writing funding grants. Δ



Sen. Lieberman cites role of faith in society.



**BAPTIST
JOINT
COMMITTEE**

200 Maryland Ave. N.E.
Washington, D.C. 20002-5797
202-544-4226
Fax: 202-544-2094
E-mail: bjcpa@bjcpa.org
Website: www.bjcpa.org

AUTO***MIXED AADC 207
A.R. FAGAN
901 COMMERCE STREET
Nashville TN 37203-3620

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