



UNIVERSITY OF  
NOTRE DAME

THE LAW SCHOOL

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August 14, 2008

Rep. Robert E. Belfanti, Jr.  
Chairman, House Labor Relations Committee  
House P.O. Box 202107  
Harrisburg, PA 17120

**RE: HB 2626**

Dear Chairman Belfanti:

I teach, research, and write about Constitutional Law and other matters at the University of Notre Dame, focusing in a particular way on First Amendment and church-state questions. I was also a member of the University's Task Force on Catholic Education, which produced in late 2006 a comprehensive study of the importance of, and challenges facing, Catholic schools. I have, for your convenience, attached a copy of my *curriculum vitae*, which lists a number of relevant scholarly works and presentations.

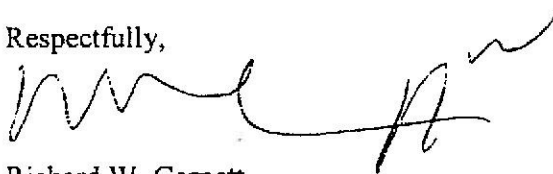
I am writing to urge the rejection of HB 2626, which would – among other things -- expand the jurisdiction of the Labor Relations Board over lay teachers in Catholic schools. I should emphasize that my strong reservations about this expansion should not, in any way, be understood as reflecting hostility toward the rights of workers and the importance of labor unions. Instead, my concerns are grounded entirely on a commitment – one that I am confident you and your colleagues share – to religious freedom.

It is often observed that religious liberty is Americans' "first freedom." It is easy to forget, though, that religious liberty involves and implicates not just the relationships between governments and individuals; it also involves, fundamentally, the freedom, independence, and autonomy of religious *institutions*, including schools. It is, therefore, essential to the protection and maintenance of religious freedom that such institutions' right to form their identities, express their messages, and choose their own spokespersons not be burdened by even well-meaning regulations.

Catholic schools are essential to the flourishing and exercise of the Catholic faith. The selection of Catholic school teachers, like the formation of students, is at the heart of the free exercise of religion. And, it is my considered judgment that the expansion of jurisdiction envisioned in HB 2626 would not only burden the exercise of religious freedom, it would also entangle government decisionmakers in religious questions and doctrines to an extent not permitted by our Constitution's no-establishment command.

If it would be helpful, I would be happy to provide you and your colleagues a more detailed exposition of my views, and reasons for concluding that HB 2626 would violate both our religious-liberty commitments and our Constitution. Thank you very much for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read 'Richard W. Garnett', written in a cursive style.

Richard W. Garnett  
Professor of Law

## RICHARD W. GARNETT

Notre Dame Law School  
Notre Dame, Indiana 46556  
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### ACADEMIC APPOINTMENTS

- Fall 1999-present     **Notre Dame Law School**, Notre Dame, IN  
*Professor of Law* (2008-present); *John Cardinal O'Hara, C.S.C. Associate Professor* (2005-2008) (with tenure); *Associate Professor* (2002-2005); *Assistant Professor* (1999-2002). Courses taught: Criminal Law, Constitutional Law, Constitutional Criminal Procedure, The First Amendment, The Freedom of Speech, The Freedom of Religion, and The Death Penalty.
- Spring 2007            **University of Chicago Law School**, Chicago, IL  
*Visiting Professor of Law*  
Courses taught: Criminal Law, Law & the Catholic Social Tradition.
- Fall 2006              **Erasmus Institute**, Notre Dame, IN  
*Visiting Scholar*
- May 2005              **Hoover Institution**, Stanford, CA  
*Visiting Scholar*
- Spring 2004           **Northwestern University School of Law**, Chicago, IL  
*Visiting Scholar*
- Fall 2003              **Notre Dame London Law Programme**, London, UK  
*Associate Professor*  
Course taught: The Freedom of Speech.
- Spring 1996           **University of Arkansas-Little Rock School of Law**, Little Rock, AR  
*Adjunct Professor*  
Course taught: The Tradition, Law, and Future of the American Jury.

### JUDICIAL CLERKSHIPS

- 1996-1997            **Hon. William H. Rehnquist**, Chief Justice of the United States
- 1995-1996            **Hon. Richard S. Arnold**, Chief Judge, United States Court of Appeals

## EDUCATION

- 1992-1995      **Yale Law School**, New Haven, CT  
Juris Doctor, 1995
- 1986-1990      **Duke University**, Durham, NC  
Bachelor of Arts, *summa cum laude*, in Philosophy with Honors, 1990
- 1988-1989      **Brasenose College**, Oxford, U.K.  
Visiting Student in Philosophy

## LAW PRACTICE

- 1997-1999      **Miller, Cassidy, Larroca & Lewin**, Washington, D.C.  
*Associate*. Specialized in First Amendment, criminal-defense, and commercial-litigation matters.

## OTHER LEGAL EXPERIENCE

- Summer 1995      **Miller, Cassidy, Larroca & Lewin**, Washington, D.C.  
*Summer Associate*
- Summer 1994      **Meyer, Hendricks, Victor, Osborn & Maledon**, Phoenix, AZ  
*Summer Associate*
- Spencer, Fane, Britt & Browne**, Kansas City, MO  
*Summer Associate*
- Summer 1993      **Arizona Capital Representation Project**, Tempe, AZ  
*Law Clerk*
- Federal Public Defender**, Phoenix, AZ  
*Law Clerk*
- 1990-1991      **Jesuit Volunteer Corps**, San Francisco, CA  
*Sentencing Consultant*. Worked at the National Center on Institutions and Alternatives (now the Center on Juvenile and Criminal Justice) while living in community with other volunteers.

## HONORS AND AWARDS

- Commitment Award, Notre Dame Black Law Students Association (April 2004).
- Charles Crutchfield Professorial Excellence Award, Notre Dame Black Law Students Association (April 2001).



## WORKS IN PROGRESS

- TWO THERE ARE: UNDERSTANDING THE SEPARATION OF CHURCH AND STATE.
- *Do Churches Matter? Toward an Institutional Understanding of the Religion Clauses*, \_\_\_ VILL. L. REV. \_\_\_ (forthcoming 2008).

## ARTICLES AND REVIEW ESSAYS

- *Students, Speech, and the "Mission" of Public Schools*, 12 LEWIS & CLARK L. REV. 45 (2008).
- *Religion and Group Rights: Are Churches (Just) Like the Boy Scouts?*, 22 ST. JOHN'S J. LEG. COMMENT. 515 (2007).
- *Pluralism, Dialogue, and Freedom: Professor Robert Rodes and the Church-State Nexus*, 22 J. L. & RELIGION 503 (2007).
- *Church, State, and the Practice of Love*, 52 VILLANOVA L. REV. 281 (2007).
- *Civic Unity and Religious Pluralism*, 23 CONST. COMMENT. 241 (2006) (reviewing NOAH FELDMAN, *DIVIDED BY GOD: AMERICA'S CHURCH-STATE PROBLEM—AND WHAT WE SHOULD DO ABOUT IT* (2005) and KEVIN SEAMUS HASSON, *THE RIGHT TO BE WRONG: ENDING THE CULTURE WAR OVER RELIGION IN AMERICA* (2005)).
- *Taking Accommodation Seriously: Religious Freedom and the O Centro Case*, 2006 CATO SUP. CT. REV. 257 (2006) (with Joshua D. Dunlap).
- *Religion, Division, and the First Amendment*, 94 GEO. L.J. 1666 (2006).
- *The Freedom of the Church*, 4 J. CATH. SOCIAL THOUGHT 59 (2006).
- *Changing Minds: Proselytism, Freedom, and the First Amendment*, 2 UNIV. OF ST. THOMAS L. J. 453 (2005).
- *Jaycees Reconsidered: Judge Richard S. Arnold and the Freedom of Association*, 58 ARKANSAS L. REV. 587 (2005).
- *Assimilation, Toleration, and the State's Interest in Religious Doctrine*, 51 U.C.L.A. L. REV. 1645 (2004).
- *American Conversations With(in) Catholicism*, 102 MICH. L. REV. 1191 (2004) (reviewing JOHN T. MCGREEVY, *CATHOLICISM AND AMERICAN FREEDOM: A HISTORY* (2003)).
- *The Theology of the Blaine Amendments*, 2 FIRST. AMD. L. REV. 45 (2003).
- *The New Federalism, the Spending Power, and Federal Criminal Law*, 89 CORNELL L. REV. 1 (2003).
- *Christian Witness, Moral Anthropology, and the Death Penalty*, 17 NOTRE DAME J. ETHICS, L. & PUB. POL'Y 541 (2003).
- *The Right Questions About School Choice: Education, Religious Freedom, and the Common Good*, 23 CARDOZO L. REV. 1281 (2002).

## ARTICLES AND REVIEW ESSAYS (CONTINUED)

- *Sectarian Reflections on Lawyers' Ethics and Death-Row Volunteers*, 77 NOTRE DAME L. REV. 795 (2002).
- *Common Schools and the Common Good: Reflections on the School-Choice Debate*, 75 ST. JOHN'S LAW REV. 219 (2001).
- *A Quiet Faith? Taxes, Politics, and the Privatization of Religion*, 42 B.C. L. REV. 771 (2001).
- *The Story of Henry Adams's Soul: Education and the Expression of Associations*, 85 MINN. L. REV. 1841 (2001).
- *Brown's Promise, Blaine's Legacy*, 17 CONST. COMM. 651 (2000) (reviewing JOSEPH P. VITERITTI, CHOOSING EQUALITY: SCHOOL CHOICE, THE CONSTITUTION, AND CIVIL SOCIETY (1999)).
- *Taking Pierce Seriously: The Family, Religious Education, and Harm to Children*, 76 NOTRE DAME L. REV. 109 (2000).
- *Francis Bacon Takes On the Ghouls: The "First Principles" of Religious Freedom*, 3 GREEN BAG 2D 447 (2000) (reviewing JOHN WITTE JR., RELIGION AND THE AMERICAN CONSTITUTIONAL EXPERIMENT (2000)).
- *School Choice, The First Amendment, and Social Justice*, 4 TEX. REV. L. & POL. 301 (2000)(with Nicole Stelle Garnett).
- *Once More Into the Maze: United States v. Lopez, Tribal Self-Determination, and Federal Conspiracy Jurisdiction in Indian Country*, 72 N.D. L. REV. 433 (1996).
- *Why Informed Consent? Human Experimentation and the Ethics of Autonomy*, 36 CATH. LAW. 455 (1996).
- Note, *Depravity Thrice Removed: Using the "Heinous, Cruel, or Depraved" Factor to Aggravate Convictions of Nontriggermen Accomplices in Capital Cases*, 103 YALE L. J. 2471 (1994).

## BOOK CHAPTERS

- *Less Is More: Justice Rehnquist, the Freedom of Speech, and Democracy*, in C. BRADLEY, ED., THE REHNQUIST LEGACY (2006).
- "Everlasting Splendours": *Death-Row Volunteers, Lawyers' Ethics, and the Dignity of Creatures*, in MICHAEL A. SCAPERLANDA & TERESA STANTON COLLETT, EDS., SELF-EVIDENT TRUTHS: CATHOLIC PERSPECTIVES ON AMERICAN LAW (2007).
- *Regulatory Strings and Religious Freedom: Requiring Private Schools To Promote Public Values*, in S. MACEDO, ET AL., EDS., EDUCATING CITIZENS: INTERNATIONAL PERSPECTIVES ON CIVIC VALUES AND SCHOOL CHOICE 324 (2004).
- *Christian Witness, Moral Anthropology, and the Death Penalty*, in ERIK C. OWENS, ET AL., EDS., A CALL FOR RECKONING: RELIGION AND THE DEATH PENALTY 139 (2004).

## OTHER LEGAL PUBLICATIONS

- *Briefly Noted*, FIRST THINGS (March 2008) (reviewing PHILIP BESS, *TILL WE HAVE BUILT JERUSALEM: ARCHITECTURE, URBANISM, AND THE SACRED* (2006)).
- *Briefly Noted*, FIRST THINGS (Oct. 2007) (reviewing PATRICK M. GARRY, *WRESTLING WITH GOD: THE COURTS' TORTUOUS TREATMENT OF RELIGION* (2007)).
- *A Matter of Opinion: Hein v. Freedom From Religion Foundation, Inc.*, LIBERTY (Nov./Dec. 2007).
- *Our Structural Constitution: Religious Freedom and Church Autonomy*, 46 CHICAGO STUDIES 123 (2007).
- *Drop "Coffers,"* 10 GREEN BAG 2d 299 (2007) (with Benjamin P. Carr).
- *Free To Believe*, FIRST THINGS (May 2007) (reviewing CHRISTOPHER L. EISGRUBER & LAWRENCE G. SAGER, *RELIGIOUS FREEDOM AND THE CONSTITUTION* (2007)).
- *Individuals First*, COMMONWEAL (April 6, 2007) (reviewing CHARLES FRIED, *MODERN LIBERTY AND THE LIMITS OF GOVERNMENT* (2006)).
- *Law, Lawyers, the Court, and Catholicism*, American Catholic Studies Newsletter, Cushwa Center for the Study of American Catholicism, Vol. 33, No. 2 (Fall 2006).
- *Debate, Judicial Activism and its Critics*, 155 U. PENN. L. REV. PENNUMBRA 112 (2006), <http://www.pennumbra.com/debates/debate.php?did=3> (with Kermit Roosevelt).
- *Personal Reflections on the Chief*, 10 TEX. REV. L. & POL. 283 (2006).
- *Chief Justice Rehnquist's Enduring, Democratic Constitution*, 29 HARV. J. L. & PUB. POL'Y 395 (2006).
- *William H. Rehnquist: A Life Lived Greatly, and Well*, 115 YALE L. J. 1847 (2006).
- *Introduction: Religion, Division, and the Constitution*, 15 WM. & MARY BILL OF RIGHTS JOURNAL 1 (2006).
- *Chief Justice Rehnquist and the Freedom of Speech*, ENGAGE (Vol. 7, Issue 1) (2006).
- *Bush v. Holmes: School Vouchers, Religious Freedom, and State Constitutions*, 17 EDUC. & THE LAW 173 (2005) (with Christopher S. Pearsall).
- *Permanent Conflict*, COMMONWEAL (Nov. 18, 2005) (reviewing NOAH FELDMAN, *DIVIDED BY GOD* (2005), MARCI A. HAMILTON, *GOD VS. THE GAVEL* (2005), and WINNIFRED FALLERS SULLIVAN, *THE IMPOSSIBILITY OF RELIGIOUS FREEDOM* (2005)).
- *Good News Club v. Milford Central School*, in K. HALL, ED., *THE OXFORD COMPANION TO THE SUPREME COURT OF THE UNITED STATES* (2005).
- *Public Trial*, in MATTHEW SPALDING & DAVID FORTE, EDS, *THE HERITAGE GUIDE TO THE CONSTITUTION* (2005).
- *Hail to the Chief?*, LEGAL AFFAIRS (March 2005).
- *Citizens, Not Outlaws*, NATIONAL REVIEW (Aug. 11, 2003) (reviewing MICHAEL J. PERRY, *UNDER GOD? RELIGIOUS FAITH AND LIBERAL DEMOCRACY* (2003)).
- *Final Justice*, AMERICA (Oct. 27, 2003) (reviewing S. BANNER, *THE DEATH PENALTY: AN AMERICAN HISTORY* (2002) & F. ZIMRING, *THE CONTRADICTIONS OF AMERICAN CAPITAL PUNISHMENT* (2003)).
- *The Rehnquist Choice*, TRIAL (June 2002) (reviewing JOHN DEAN, *THE REHNQUIST CHOICE* (2002)).

## OTHER LEGAL PUBLICATIONS (CONTINUED)

- *Section 666, The Spending Power, and the Federalization of Criminal Law: Salinas, Fischer, and the Way Ahead*, THE CHAMPION (May 2001) (with John P. Elwood).
- *Education Reform at the Crossroads: Politics, The Constitution, and the Battle Over School Choice*, 10 GEO. MASON CIV. R. L. J. 107 (2000).
- *What Are the Limits on Warrantless Drug Testing of Pregnant Women?*, 1 A.B.A. PREVIEW 31 (September 13, 2000).
- *Does the Constitution Permit Federal Prosecution for the Arson of a Private Residence?*, 6 A.B.A. PREVIEW 331 (March 8, 2000).
- *Are Payments to a Hospital for Services Provided Medicare Beneficiaries "Benefits" Under the Federal-Program Bribery Statute?*, 5 A.B.A. PREVIEW 251 (February 5, 2000).
- *Tribute to the Honorable Richard S. Arnold*, 1 J. APP. PRAC. & PROC. 204 (1999).
- *The Justice of School Choice*, THE WEEKLY STANDARD (December 13, 1999) (reviewing JOSEPH P. VITERITTI, CHOOSING EQUALITY: SCHOOL CHOICE, THE CONSTITUTION, AND CIVIL SOCIETY (1999)).

## SELECTED COMMENTARY

Professor Garnett's analysis and commentary appears frequently in local, regional, and national print and broadcast media. His published editorial work includes:

- *When Catholicism was the Target*, USA TODAY (Jan. 28, 2008).
- *Our Real National Pastime*, USA TODAY (Sept. 10, 2007).
- *Carhart, Casey, and the Court's Catholics*, JURIST (April 25, 2007).
- *China's Lesson on Freedom of Religion*, USA TODAY (March 26, 2007).
- *What Would Lincoln Do? A Test for the Roberts Court*, THE WEEKLY STANDARD (Oct. 16, 2006) (with Michael Stokes Paulsen).
- *Don't Use First Amendment To Erase Divisions*, LOS ANGELES DAILY JOURNAL (October 9, 2006).
- *Downsizing and the Catholic Church*, USA TODAY (July 16, 2006).
- *Campaigning from the Pulpit: Why Not?*, USA TODAY (April 16, 2006).
- *An Unassuming Decision*, NATIONAL REVIEW ONLINE (Feb. 23, 2006).
- *Two Justices Who "Get" Religion*, USA TODAY (Jan. 23, 2006).
- *Just Right*, N.Y. SUN (Nov. 1, 2005).
- *Rehnquist's True Legacy*, N.Y. DAILY NEWS (Sept. 7, 2005).
- *Tennis and Top Buttons: Remembering William H. Rehnquist*, SLATE (Sept. 4, 2005).
- *Religious Expression Should Be Welcomed*, INDIANAPOLIS STAR (July 17, 2005).
- *Unanimous!*, NATIONAL REVIEW ONLINE (June 1, 2005).
- *How High a Wall?*, COMMONWEAL (May 2005).
- *Debate Club*, LEGAL AFFAIRS (Feb. 2005).
- *Law Schools and the Military*, COMMONWEAL (Jan. 2005).
- *Keep it to Yourself*, COMMONWEAL (Aug. 2004).
- *Crime Victims' Rights Law Riddled With Pitfalls*, CHICAGO SUN-TIMES (May 3, 2004).

### SELECTED COMMENTARY (CONTINUED)

- *Confine and Conquer: The California Supreme Court and Religious Freedom*, NATIONAL REVIEW ONLINE (March 3, 2004).
- *Let Off With a Warning*, LEGAL AFFAIRS (Jan./Feb. 2004).
- *Conservatives, Federalism, and Consistency*, NATIONAL REVIEW ONLINE (Dec. 1, 2003).
- *Yes to Vouchers*, COMMONWEAL (Aug. 16, 2002).
- *Future Church-State Battles Loom*, THE WALL STREET JOURNAL (July 1, 2002).
- *Choice Win: In the Spirit of Brown*, NATIONAL REVIEW ONLINE (June 27, 2002).
- *Disrobed! Actually, They Think for Themselves*, THE WASHINGTON POST (July 1, 2001).
- *A Supreme Court Ruling Bodes Well for School Vouchers*, THE WALL STREET JOURNAL (June 13, 2001).
- *Misguided Voucher Verdict*, THE WASHINGTON TIMES (Dec. 14, 2000).
- *Lieberman Talks the Talk*, THE LOS ANGELES TIMES (Oct. 29, 2000).
- *Establishment Clause Housecleaning*, NATIONAL REVIEW ONLINE (June 28, 2000).
- *The Courts and Abortion*, THE WEEKLY STANDARD (June 12, 2000).
- *A Victory for the Family*, THE WALL STREET JOURNAL (June 6, 2000).
- *Free the States, or Free the People?*, THE LEGAL TIMES (April 10, 2000).
- *After 200 Years, School Choice Loses in Maine*, THE WALL STREET JOURNAL (May 3, 1999).

### LEGISLATIVE TESTIMONY

- *Beyond the Pledge of Allegiance: Hostility to Religious Expression in the Public Square*. United States Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Property Rights (June 8, 2004).

### SELECTED AMICUS CURIAE AND OTHER LEGAL BRIEFS

Professor Garnett consults regularly with litigators and legislators. His recent work in the Supreme Court of the United States includes:

- *Gonzales v. Planned Parenthood*, 550 U.S. \_\_\_ (2007), Brief *Amicus Curiae* in Support of Petitioner of the Christian Legal Society, *et al.* (with Michael Stokes Paulsen and Greg Baylor).
- *Sabri v. United States*, 541 U.S. 600 (2004), Brief *Amicus Curiae* of the National Association of Criminal Defense Lawyers in Support of Petitioner (with Joshua Dratel & Richard Greenberg).
- *Locke v. Davey*, 540 U.S. 712 (2004), Brief *Amici Curiae* of the Becket Fund for Religious Liberty, the Catholic League for Religious and Civil Rights, and Historians and Legal Scholars in Support of Respondent (with Kevin Hasson, Roman Storzer, and Anthony Picarello).

## SELECTED *AMICUS CURIAE* AND OTHER LEGAL BRIEFS (CONTINUED)

- *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002), Brief *Amicus Curiae* of the Becket Fund for Religious Liberty in Support of Petitioners (with Kevin Hasson, Eric Treene, and Roman Storzer).
- *Good News Club v. Milford Central School*, 533 U.S. 98 (2002), Brief *Amicus Curiae* of Christian Legal Society and Union of Orthodox Jewish Congregations of America in Support of Petitioners (with Carl Esbeck and Nathan Diament).
- *K.D.M. v. Reedsport School Dist.*, *cert. denied*, 531 U.S. 1010 (2000), Petition for Writ of Certiorari (with Michael Stokes Paulsen).
- *Troxel v. Granville*, 530 U.S. 57 (2000), Brief *Amici Curiae* of Christian Legal Society, *et al.*, in Support of the Respondent (with Michael Stokes Paulsen, Carl Esbeck, Gregory Baylor, and Kimberlee Wood Colby).
- *Fischer v. United States*, 529 U.S. 667 (2000), Brief of the National Association of Criminal Defense Lawyers as *Amicus Curiae* in Support of Petitioner (with Lisa Kemler).
- *Andrews, et al. v. Vermont Dep't of Education*, *cert. denied*, 528 U.S. 1066 (1999), Petition for Writ of Certiorari (with Michael Stokes Paulsen).

## SELECTED LECTURES, WORKSHOPS, PANELS & COLLOQUIA

- *Recent Constitutional Controversies Over Religious Liberty*, Law and Religion Conference, Program in Law and Public Affairs, Princeton University (May 29, 2008) (invited speaker).
- *Judicial Interference with Community Values*, Federalist Society Student Symposium, University of Michigan Law School (March 7, 2008) (invited presenter).
- *Religion, Citizenship, and Multiculturalism*, Conference at Harvard Law School (Feb. 29-March 1, 2008) (invited participant).
- *Chief Justice Rehnquist, Religion, and the Constitution*, Conference on the Contributions of William H. Rehnquist to American Constitutional Jurisprudence, sponsored by the James Madison Program in American Ideals and Institutions and the Program in Law and Public Affairs, Princeton University (Feb. 8, 2006) (invited speaker).
- *Natural Law, Human Rights, and Cultural Dialogue*, Conference: The Dialogue of Cultures, The Notre Dame Center for Ethics and Culture (Nov. 30, 2007).
- *Distinguished Visiting Professor of Law*, University of Southern California Gould School of Law (Oct. 1-5, 2007).
- *The Supreme Court: Past and Prologue – A Look at the October 2006 and October 2007 Terms*, Constitution Day symposium, Cato Institute (Sept. 17, 2007) (panel participant).
- *The U.S. Supreme Court: Its Recent Term & Its New Justices*, American Political Science Association Annual Meeting (Aug. 30, 2007) (panel participant).
- *Highlights of the Supreme Court Term: How Has the New Conservative Majority Affected the Court?*, *The New Media: Bloggers and the Court*, “Justice Talking,” National Constitution Center, Philadelphia, PA (July 10, 2007).
- *Are Churches (Just) Like the Boy Scouts?*, Lehrman Summer Institute, Princeton, NJ (June 27, 2007).

- Annual Meeting of the 7<sup>th</sup> Circuit Bar Association, Milwaukee, WI (May 8, 2007) (panel participant).



## SELECTED LECTURES, WORKSHOPS, PANELS & COLLOQUIA (CONTINUED)

- *Are Churches (Just) Like the Boy Scouts?* Faculty Works In Progress Workshop, University of Chicago Law School (April 19, 2007).
- *Two There Are: Understanding the Separation of Church and State*, Conference on the American Experiment in Religious Freedom, The Garaventa Center for Catholic Intellectual Life and American Culture, University of Portland (April 14, 2007).
- *Two There Are: Understanding the Separation of Church and State*, The Kamm Memorial Lecture on Jurisprudence, Wheaton College (April 10, 2007).
- *Rethinking Separation: Churches as First Amendment Institutions*, Faculty Workshop Series, Marquette University School of Law (April 3, 2007).
- *Religion and Group Rights*, Religion and Morality in the Public Square: A Symposium on Philosophy, History and Law, St. John's University School of Law (March 23, 2007) (panel discussion).
- *Do Churches Matter? Toward an Institutional Understanding of the Religion Clauses*, The Gianella Memorial Lecture, Villanova University School of Law (March 21, 2007).
- *What Is Morality? The Philosophical and Theological Foundations of Moral Debate*, Federalist Society Student Symposium, Northwestern University School of Law (Feb. 23, 2007) (panel discussion).
- *Catholicism and American Freedom*, Yves Simon Series, Lumen Christi Institute, Chicago, IL (Feb. 15, 2007) (panel discussion).
- New Book Symposium, *The Myth of Judicial Activism*, University of Pennsylvania Law School (Dec. 5, 2006).
- *Two There Are: Understanding Church-State Separation and Religious Freedom*, Christian Jurisprudence Project, Center for the Study of Law and Religion, Emory University School of Law (Nov. 3, 2006).
- *May Churches Discriminate?*, Federalist Society, Pepperdine University School of Law (Oct. 17, 2006).
- *Religion in the Public Square: What Do Our Laws and Traditions Have To Say?*, Holy Cross Center for Religion, Ethics & Culture, College of the Holy Cross (Oct. 12, 2006).
- *Pope Benedict XVI and the Freedom of the Church*, First Annual Scarpa Conference: From Pope John Paul II to Benedict XVI: Continuing the Re-Evangelization of Law, Politics, and Culture, Villanova University School of Law (Sept. 15, 2006).
- *Constitutional Reflections on the Parish as an Organization*, Conference on the Parish, Dominican School of Philosophy and Theology, Loyola University-Chicago (July 18, 2006).
- *Summit on Church Autonomy*, Christian Legal Society (June 22-23, 2006).
- *Arizona's Supreme Court Legacy: Chief Justice William H. Rehnquist & Justice Sandra Day O'Connor*, Appellate Practice Section, State Bar of Arizona (June 16, 2006).
- *Catholic Social Thought and the Law "Brainstorm,"* Fordham University School of Law (May 31-June 1, 2006).
- *Religious Freedom, Church Autonomy, and Libertas Ecclesiae*, Colloquium on Constitutional Law and Theory, Georgetown University Law Center (April 25, 2006).
- *Law's Quandary Roundtable*, Notre Dame Law School (March 31, 2006).



## SELECTED LECTURES, WORKSHOPS, PANELS & COLLOQUIA (CONTINUED)

- *The Rehnquist Legacy*, Federalist Society, University of Kansas School of Law (March 10, 2006).
- *The Jurisprudence of the Rehnquist Court and the Enterprise of Judging*, "The Legacy of the Rehnquist Court," Conference Sponsored by the Milwaukee Lawyers Chapter of the Federalist Society (Feb. 23, 2006).
- *The Freedom of the Church*, Faculty Workshop, Seton Hall University School of Law (February 20, 2006).
- *Religion, Division, and the First Amendment*, University of Kansas School of Law (March 10, 2006); Colloquium on Religion and History, University of Notre Dame (Feb. 15, 2006); Ave Maria School of Law (Nov. 16, 2005); Wake Forest University School of Law (Oct. 21, 2004); University of St. Thomas School of Law (Oct. 19, 2004); University of Illinois College of Law (Oct. 12, 2004); Northwestern University School of Law (June 24, 2004); University of San Diego School of Law (Sept. 22, 2003); "Under God? "Religious Liberty and Contemporary First Amendment Jurisprudence," American Political Science Association Annual Meeting (Sept. 2, 2004).
- *The Rehnquist Legacy*, Federalist Society, University of Chicago Law School (Jan. 13, 2006).
- *Chief Justice Rehnquist and the Future of the United States Supreme Court*, Chicago Lawyers Chapter of the Federalist Society (Jan. 10, 2006).
- *Religion, Division, and the Constitution*, Program of the Section on Law and Religion, AALS Annual Meeting (January 8, 2006) (program chair).
- *The Rehnquist Legacy*, Federalist Society, Ave Maria School of Law (Nov. 16, 2005).
- *The Legacy of the Rehnquist Court*, Valparaiso University School of Law (Oct. 10, 2005).
- *The Catholic Law School*, Conference: Joy in the Truth: The Catholic University in the New Millennium, The Notre Dame Center for Ethics and Culture, Notre Dame, Indiana (Sept. 30, 2005) (panel chair).
- *Changing Minds: Evangelism, Proselytism, and Religious Freedom*, The Foundation of Freedom Conference, The Garaventa Center for Catholic Intellectual Life and American Culture, University of Portland (June 3, 2005).
- *Free Speech, Public Property, and Government Money*, Symposium, "The Rehnquist Legacy," Indiana University School of Law (April 1, 2005).
- *Should Christian Legal Thought Be Taken Seriously?* Annual Conference, Law Professors Christian Fellowship (Jan. 8, 2005).
- *The Law of Changing Minds: Evangelism, Proselytism, and the First Amendment*, 2004 Culture of Law Lecture Series: Christian Contributions to Contemporary Jurisprudence, John Paul II Cultural Center, Washington, D.C. (Dec. 2, 2004).
- *Terror, Torts, and Telecom: The Supreme Court's 2003-2004 Term*, American Enterprise Institute, Washington, D.C. (June 29, 2004).
- *Reflections on the Catholic Charities Case*. St. Thomas More Society, University of Chicago Law School (May 4, 2004).

## SELECTED LECTURES, WORKSHOPS, PANELS & COLLOQUIA (CONTINUED)

- *No More Certain Antithesis? Assimilation, Toleration, and the State's Interest in Religious Doctrine.* Symposium, "Integration, Difference, and Citizenship: Celebrating 50 Years of the UCLA Law Review," UCLA School of Law (Jan. 30, 2004).
- *The Theology of the Blaine Amendments.* Arizona State University College of Law (Sept. 17, 2003).
- *Property, Race, and Poverty.* New York University School of Law, Villa Law Pietra, Florence, Italy (July 13-16, 2003) (discussant).
- *Voluntary Associations and the American Experience.* Law and Society Association Annual Meeting (June 5, 2003) (panel chair and discussant).
- *Regulating School Choice to Promote Civic Values: What the United States Can Learn from Other Countries.* Conference, Brookings Institution / Gates Foundation National Working Commission on School Choice, University of London, London, U.K. (Apr. 10-12, 2003) (commentator and participant).
- *The Theology of the Blaine Amendments,* Symposium, "The Separation of Church and States: An Examination of State Constitutional Limits on Government Funding for Religious Institutions," University of North Carolina School of Law (March 28, 2003).
- *Religious Freedom, the First Amendment, and Educational Choice: What's Next After Zelman?'*, Federalist Society, University of Oklahoma Law Center (Feb. 3, 2003).
- *The Catholic Experience: Americanism, Dignitatis humanae, and the First Amendment.* Symposium, "Faith Under Democracy: What Have Religious Believers Gained? What Have They Lost?'," Ave Maria School of Law (Mar. 22, 2002) (panel moderator) (published as *The Catholic Experience in America*, 1 GEO. J. L. & PUB. POL'Y 311 (2003)).
- *Religious Witness in the Public Square: How Not to Think About the Death Penalty, Punishment, and Human Dignity,* Conference, "A Call for Reckoning: Religion & the Death Penalty," University of Chicago Divinity School (Jan. 25, 2002).
- *A Quiet Faith? Taxes, Politics, and the Privatization of Religion,* Symposium, "The Conflicted First Amendment: Tax Exemptions, Religious Groups and Political Activity," Boston College Law School (April 20, 2001).
- *Education and the Expression of Associations,* Symposium, "The Freedom of Expressive Association," University of Minnesota Law School (Feb. 10, 2001).
- *The Spending Power and Federal Criminal Jurisdiction,* Federalist Society Faculty Division Conference, San Francisco, CA (Jan. 5, 2001).
- *School Choice and the Common Good,* Conference, "Law, Religion, and the Public Good," St. John's University School of Law (Nov. 2000).
- *Religious Liberty and Public Money: Will Charitable Choice Require Faith-Based Organizations to Sell Their Souls?'*, Conference, "Faith (and) Works: Charitable Choice, Religious Liberty, and Defining the Common Good," Indianapolis, IN (July 13, 2000) (panel moderator and conference organizer).
- *School Choice, the First Amendment, and Social Justice,* Federalist Society, University of Iowa School of Law (April 14, 2000).

## SELECTED LECTURES, WORKSHOPS, PANELS & COLLOQUIA (CONTINUED)

- *Taking Pierce Seriously: The Family, Religious Education, and Harm to Children*. Joint Program of the Sections on Law and Religion & Family and Juvenile Law, AALS Annual Meeting, Washington, D.C. (Jan. 9, 2000).
- *School Choice in the Courts*, Conference, "Education Reform at the Crossroads: Politics, The Constitution, and the Battle Over School Choice," Toledo, OH (March 26, 1999) (panel moderator and conference organizer).

Professor Garnett regularly addresses a wide variety of Notre Dame Law School student groups and community organizations on constitutional and other legal matters.

## PROFESSIONAL SERVICE AND ACTIVITIES

- Chair, AALS Section on Law and Religion (2007-2008).
- Senior Fellow, Center for the Study of Law and Religion, Emory University School of Law (2004-present).
- Chair-Elect, AALS Section on Constitutional Law (2008-present).
- Nominating Committee of the AALS (2008-present).
- Secretary, AALS Section on Constitutional Law (2007-2008).
- Executive Committee, Religiously Affiliated Law Schools (2006-present).
- Fellow, Institute on Educational Initiatives, University of Notre Dame (2000-present).
- Member, National Board of Academic Advisors, William H. Rehnquist Center on the Constitutional Structures of Government (2007 – present).
- Subcommittee Chair, Notre Dame Special Initiative on Catholic Education (2005- 2006).
- Committee on Resolutions, Bar of the Supreme Court of the United States, *Resolution in of the Bar of the Supreme Court of the United States in Gratitude and Appreciation for the Life, Work, and Service of Chief Justice William H. Rehnquist* (Summer 2006).
- Center Committee, Center for Law and Religious Freedom (2006-present).
- Circle of Scholars, Lumen Christi Institute (2006-present).
- Board of Advisors, Center for Constitutional Jurisprudence, Claremont Institute (2004-present).
- Member, Faculty Steering Committee, Tocqueville Program for Inquiry into Religion and Public Life (2005-present).
- Fellow, Institute on Educational Initiatives, University of Notre Dame (2000-present).
- Chair-elect, AALS Section on Law and Religion (2006-2007).
- Executive Committee, AALS Section on Constitutional Law (2006-present).
- Program Co-Chair, AALS Section on Law and Religion (2005-2006).
- Executive Committee, AALS Section on Law and Religion (2001-02, 2004-present).
- Executive Committee, AALS Section on Criminal Justice (2004-2005).
- Board of Advisors, Americans United for Life (2001-present).
- Member, Steering Committee, TEXAS REVIEW OF LAW & POLITICS (2001-present).
- Executive Committee, Religious Liberties Practice Group, Federalist Society (1997-2002, 2005-present).

## PROFESSIONAL SERVICE AND ACTIVITIES (CONTINUED)

- Member of the District of Columbia Bar (active) and the State Bar of Arizona (inactive).

## OTHER PROFESSIONAL ACTIVITIES

- Appointed counsel in Arizona capital-defense case, *State v. William Herrera, Jr.*
- Co-founder and contributor, *Mirror of Justice* ([www.mirrorofjustice.com](http://www.mirrorofjustice.com)); contributor, *Prawfsblawg* (<http://prawfsblawg.blogs.com>) and *Vox Nova* ([www.vox-nova.com](http://www.vox-nova.com))
- Faculty Appointments Committee (2005-2006, 2007-present).
- Faculty Development Committee (2007-present).
- Advisory Board, Alliance for Catholic Education Press (2007-present).
- Faculty Clerkship Committee (2007-present).
- Faculty Colloquium Committee, Notre Dame Law School (2004-2005, 2007-present).
- Curriculum Committee, Notre Dame Law School (2001-2003).
- Advanced Legal Writing Committee, Notre Dame Law School (2004-2005).
- Admissions Committee, Notre Dame Law School (2000-2001).
- Dissertation Committee, Departments of Philosophy and Political Science, University of Notre Dame, and Notre Dame Law School, for Margaret Penrose, Jeffrey Langan, Brendan Dunn, David Petron, and Jesse Covington.
- Peer referee, *The Review of Politics*.
- Outside reviewer, Princeton University Press, Oxford University Press, Cambridge University Press, Lexington Books, University of Michigan Press.
- Faculty Advisor: St. Thomas More Society, Native American Law Students Association, *Jus Vitae*.

## PERSONAL

- Born Bryn Mawr, Pennsylvania (November 6, 1968).
- Raised in Anchorage, Alaska; graduated from East Anchorage High School (1986).
- Married, Nicole Stelle Garnett (October 22, 1994).
- Three children: Margaret Clare Garnett (born September 27, 1999), Thomas William Garnett (born June 23, 2001), and Elizabeth Ann Garnett (born April 22, 2004).
- Member, Choctaw Nation of Oklahoma.
- Parishioner, St. Joseph Catholic Church, South Bend, Indiana (2004-present).
- Board Member, Northeast Neighborhood Council, South Bend, Indiana (2003-2006).

## REFERENCES

- Dean John H. Garvey, Boston College Law School.
- John Witte, Jr., Jonas Robitscher Professor of Law and Ethics, Emory University School of Law.
- Steven D. Smith, Warren Distinguished Professor of Law, Univ. of San Diego School of Law.
- Philip Hamburger, John P. Wilson Professor of Law, University of Chicago Law School.
- Mark Tushnet, William Nelson Cromwell Professor of Law, Harvard Law School.

