

The Legal Light

The J. Reuben Clark Law Society, Orange County Chapter
July 2006

QUALITY EVENTS DISTINGUISH OUR CHAPTER

By Jeffrey W. Shields

Chair, Orange County Chapter of the JRCLS

Quality speakers and events continue to distinguish our Orange County Chapter. In April, we sponsored the Second Annual Religion and the Law Symposium. It was a great success, and featured nationally syndicated radio host Hugh Hewitt, as well as Professors James Hayes, Charles Doskow and Joel Nichols, Judges Brett London and David McEachen, and civil rights attorney Ron Talmo. (See related article inside this edition.) As a result of the high quality of this event, Chapman University School of Law has offered to continue to host this Symposium for us every year. Many thanks to Jim Whitesides and the many others whose efforts made this event possible.



Our May Luncheon was attended by nearly 100 members (again). It featured retired Judge William Sheffield, who spoke about his spiritual conversion and career path to becoming the Church's lawyer in Asia. (See related article on this page.)

On July 13, 2006, our next Luncheon will feature Judge Jay Bybee, of the Ninth Circuit Court of Appeals. (See Calendar Section on back panel.)

On September 22, 2006, our Annual Dinner will be held at the Westin South Coast Plaza Hotel, and our guest speaker will be Sister Chieko N. Okazaki, former Counselor of the General Relief Society Presidency, and author of "Lighten Up!" and "Being Enough." This is our flagship event, so please mark your calendars and plan on attending.

Finally, our Luncheon on November 16, 2006, will feature Professor Scott Loveless, Director of the World Family Policy Center at the J. Reuben Clark Law School.

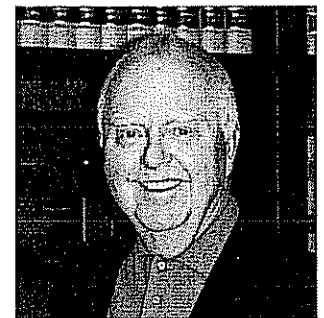
Thank you all for your continuing support of our Chapter and for making this year so successful. I look forward to seeing you at these upcoming events!

JUDGE WILLIAM SHEFFIELD: "A LEAF IN A STREAM"

By Paul A. Hoffman

At the May 18 luncheon, Judge William Sheffield (Ret.) spoke about life as being "like a leaf in a stream," comparing God to the stream and us to the leaves. Really living this metaphor requires great faith and courage--trusting in God as a child trusts a parent when that parent calls out "jump to me" in a swimming pool.

Bill Sheffield gave examples from his own life feeling God was guiding his steps and choices, preparing him for later events important to himself, his family, and the Church. The first spiritual nudge he felt as a graduate of Cal State Long Beach in 1969 when he decided to make movies with his fellow student and good friend, Steven Spielberg. Not having the money to complete his first film, Bill felt a strong urge to go to law school. He now believes that he would have made a fortune in Hollywood, but would never have obtained those things of far greater value, namely, his wife, family, or the Church.



Judge William Sheffield (Ret.)

Some time after becoming a lawyer, Bill Sheffield read an article about the legal problems of Indira Gandhi, then Prime Minister of India. Feeling impressed to write her, his "letter" became a 10-page legal brief explaining why her current legal defense strategy would result in jail time. Later, he was surprised by an invitation to join her legal team. Two years later all her charges were dismissed. While defending Mrs. Gandhi, Judge Sheffield became good friends with her son, Rajiv, the future Prime Minister of India, a very beneficial relationship, as he would learn years later.

Although Brother Sheffield married a Mormon woman, he never wanted to be a Mormon. He knew little about the Church and his wife Leslie did not push, but always quietly believed in the Church.

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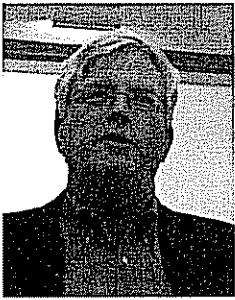
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THE SECOND ANNUAL RELIGION AND THE LAW SYMPOSIUM

By James B. Whitesides

On Thursday, April 27th, our Chapter hosted the Second Annual Religion and The Law Symposium at Chapman University College of Law. A crowd of over 75 lawyers, law students, judges and others were in attendance.

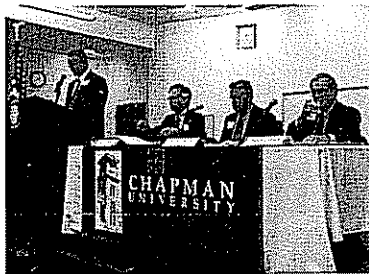


Hugh Hewitt, Nationally Syndicated Radio Host

The theme of the Symposium was "Church and State: Where Are We Headed?" The program included two panel discussions by leading legal authorities and a keynote address by Chapman University law professor and nationally syndicated radio show host, Professor Hugh Hewitt.

The first panel addressed current legal issues surrounding the recitation of the Pledge of Allegiance and the National Motto. The discussion was moderated by Orange County Superior Court Judge Brett London. Western State University law professor James A. Hayes and civil rights attorney Ronald Talmo bantered back and forth about a number of issues including those arising from the recent case of Michael A. Newdow v U.S. Congress, 292 F.3d 597 (9th Cir. 2002).

The second panel discussed prayer in government meetings and intelligent design in schools. Under the direction of Orange County Superior Court Judge David T. McEachen, University of La Verne College of Law professor Charles C. Doskow and Pepperdine University School of Law professor Joel A. Nichols exchanged views and analyzed issues arising in a number of recent cases.



L to R: Jeffrey Shields, Chairman, Orange County Chapter, JRCLS; Professor Joel Nichols, Pepperdine University Law School; Hon. David T. McEachen, Orange County Superior Court; and Professor Charles Doskow, University of La Verne College of Law.

All in all, a good time was had by all. The presentations were timely, educational and entertaining. Special appreciation goes to our panelists as well to our Co-Sponsors: Chapman University School of Law, Christian Legal Society of Los Angeles, Claremont Graduate University School of Religion, Federalist Society: Orange County Lawyers Chapter, University of La Verne College of Law, Western State University College of Law and Whittier Law School. Thanks also to the Chapman University School of Law for allowing us to use their facilities as well as Chapman staff members and students who assisted with set up and registration.

Plans are already underway for the Third Annual Symposium. Should you have any ideas or suggestions, please contact Jeff Shields or Jim Whitesides.



L to R: Professor James Hayes, Western State University College of Law; Hon. Brett London, Orange County Superior Court; and Ron Talmo, Civil Rights Attorney.



Diana Day, President, JRCLS Student Chapter, Chapman University

“On his first Sunday, the Bishop told Bill the Joseph Smith story. Bill said he was too educated and too smart to believe a story about angels and gold plates. He asked the Bishop, “Do you really believe that?” The Bishop replied: he “knew it was true” and challenged Bill to read the Book of Mormon, which he finally did at the Bishop’s insistence.”

In 1983, Bill was appointed by then-Governor Jerry Brown to the Superior Court in Orange County. After serving two years as a judge, Bill received a strong impression that he should resign to become a student at the Yale Divinity School.

Commencing his studies at Yale, Bill decided to attend the Methodist Church. Leslie said she wanted to go back to the Mormon Church. She said he did not have to go, but if he went, he had to be nice! On his first Sunday, the Bishop told Bill the Joseph Smith story. Bill said he was too educated and too smart to believe a story about angels and gold plates. He asked the Bishop, “Do you really believe that?” The Bishop replied: he “knew it was true” and challenged Bill to read the Book of Mormon, which he finally did at the Bishop’s insistence. After reading the book, Bill knew it was either a great lie—or a great truth!

He read all of the Mormon scriptures and all the anti-Mormon literature that he could find. Each anti-Mormon text had some theory about how Joseph Smith wrote the Book of Mormon. Bill even examined the original Spalding manuscript in the Yale library to see if that could have been the source and decided it was not. He took an excerpt from Jacob, Chapter 5, to a Yale Divinity theologian. The professor, who had studied migration of the “children of Israel” for 40 years, said the excerpt from the Book of Mormon was too sophisticated to discuss.

To decide whether the book was true, Bill decided to attend Brigham Young University to “cross-examine” various Mormon scholars like Hugh Nibley. BYU created a graduate study program in religion specifically for Bill Sheffield. He started his studies under the guidance of Joseph F. McConkie. When Brother McConkie explained the doctrine of the atonement in the Book of Mormon, Bill knew he was hearing true theology for the first time in his life. As he explains today, “theology is not like art. Art is not about right or wrong or true and false— theology is science.”

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RELIGIOUS MOTTOS AND LANGUAGE IN GOVERNMENT

By the Honorable Brett G. London

The government's use of religious mottos and language is extensive. We print "In God We Trust" on our money. We pledge allegiance to "one nation under God." We sing a national anthem with religious overtures. Religious symbols appear on official seals and documents. Religious paintings are exhibited in state-sponsored museums, and their images are printed on stamps. Thanksgiving, a day established to give thanks to God, is a national holiday. Cities are frequently named after religious figures. The United States Supreme Court opens its sessions with an invocation that "God save the United States and this Honorable Court." Congress has a paid chaplain. Little wonder that Justice William O. Douglas proclaimed, "We are a religious people whose institutions presuppose a Supreme Being."

The Pledge of Allegiance: One Nation Under God

The origins of the Pledge of Allegiance date back to Columbus Day, October 12, 1882. Pursuant to arrangement between federal officials and local educators, a special Columbus Day flag ceremony was conducted in schools throughout the country using the newly-drafted Pledge of Allegiance. As school children completed the phrase, "I pledge allegiance to the flag . . .," they were to raise their right arm with the palm extended toward the flag until the concluding phrase " . . . with liberty and justice for all." The words "under God" were not part of the original Pledge. For the next sixteen years, each state was free to decide whether to have the students recite the Pledge.



Hon. Brett London

In 1898, in response to the outbreak of the Spanish American War, New York became the first state to mandate the Pledge as part of its education law. Other states soon passed similar laws. During World War II, Congress enacted the Pledge and the manner of its delivery into statute. Congress soon amended the statute to remove the part of the ceremony involving students' outstretched palms as a reaction to the salute used by the Nazis.

In 1954, during the Cold War with the Communists and at the beginning of the space race with the Soviet Union, Congress further amended the Pledge to add the words "under God" after the word "nation" partly as a reaction to state-imposed atheism in communist states.

So far, litigation to remove "under God" from the Pledge of Allegiance has ultimately been unsuccessful. In 1940, the United States Supreme Court upheld the expulsion of students who refused to participate in the Pledge of Allegiance because of their religion. Just three years later, in *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943), the Supreme Court reversed itself. The Court held that a state or school board may not compel a student to recite the Pledge of Allegiance when the student has religious objections. Justice Jackson wrote, "[No] official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein."

Palmer v. Board of Educ. of City of Chicago, 603 F.2d 1271 (7th Cir. 1979) dealt with a teacher's refusal to participate in the Pledge of Allegiance, the singing of patriotic songs, and the celebration of national holidays. The teacher claimed that, because of her religion, she "would be unable to teach any subjects having to do with love of country, the flag, or other patriotic matters in the prescribed curriculum." The court held that the teacher's "right to her own religious views and practices remains unfettered, but she has no constitutional right to require others to submit to her views and to forgo a portion of their education they would otherwise be entitled to enjoy." The court concluded that "the First Amendment [is] not a teacher license for uncontrolled expression at variance with established curricular content."

"In 1954, during the Cold War with the Communists and at the beginning of the space race with the Soviet Union, Congress further amended the Pledge to add the words 'under God' after the word 'nation' partly as a reaction to state-imposed atheism in communist states."

However, in *Sherman v. Community Consolidated School Dist.*, 980 F.2d 437 (7th Cir. 1992), the Seventh Circuit ruled that "schools may lead the Pledge of Allegiance daily, so long as pupils are free not to participate." "A state therefore may not compel any person to recite the Pledge of Allegiance to the flag."

Finally, the Ninth Circuit addressed this issue in *Newdow v. U.S. Congress*, 292 F.3d 597 (9th Cir. 2002). A father of an elementary school student brought an action challenging the school district's policy of requiring teacher led recitation of the Pledge of Allegiance and the statute inserting the words "under God" into the Pledge. The Ninth Circuit ruled that the statute and the policy violated the Establishment Clause. On review, the Supreme Court side stepped the constitutional issue and reversed the Ninth Circuit

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because Mr Newdow, an attorney, did not have custody of his daughter and, therefore, lacked standing to bring the suit. After the Supreme Court's ruling, Mr Newdow filed another complaint, this time on behalf of parents without any standing problems, and has obtained a favorable ruling against the Pledge in the Eastern District of California. An appeal of that ruling is now pending again before the Ninth Circuit.

The National Motto: In God We Trust

Most people assume that the National Motto, "In God We Trust," was adopted by the Founders. However, the origin of the Motto dates to the Civil War. During the dark days of the war, a Pennsylvania minister wrote a letter to Salmon P. Chase, Secretary of the Treasury. Reverend Watkinson inquired, "What if our Republic were now shattered beyond reconstruction? . . . [W]ould not the antiquities of succeeding centuries rightly reason from our past that we were a heathen nation?" The minister recommended that the motto, "God, Liberty, Law," be stamped on the coinage of the country. Secretary Chase concurred and ordered that the mint proceed without delay to prepare the coinage for the inscription "In God We Trust."

In 1907, President Theodore Roosevelt had the Motto removed from ten dollar and twenty dollar gold coins as being sacrilegious and inconsistent with the separation of church and state. Predictably, this action caused a huge public outcry. The Motto was restored to the gold coins the following year.

"It is quite obvious that the national motto and the slogan on coinage and currency 'In God We Trust' has nothing whatsoever to do with the establishment of religion. Its use is of a patriotic or ceremonial character and bears no true resemblance to a governmental sponsorship of a religious exercise."

Ninth Circuit Court of Appeals in *Aronow v. United States*, 432 F.2d 242 (9th Cir. 1970)

In 1953, an Arkansas businessman was sitting in church one Sunday, looking at the collection plate, when it suddenly struck him that while "In God We Trust" was inscribed on the coins, it was not printed on the paper currency. Because United States currency was accepted around the world, the businessman thought to himself, "What better way to let the whole world know of our nation's faith than to place word of it on our currency?" He wrote to the Secretary of the Treasury, George W. Humphrey, suggesting that the Motto be added to the currency. Two years later, Congress authorized such an action. In 1957, the National Motto started appearing on the one dollar silver certificate.

However, it was not until April 22, 1964, that Congress formally enacted a statute providing: "[T]he national motto of the United States is declared to be 'In God We Trust.'" From that time forward, the National Motto has been inscribed on our coins and currency.

The use of "In God We Trust" on the country's coinage and currency has not gone unchallenged. In *Aronow v. United States*, 432 F.2d 242 (9th Cir. 1970), the court considered a complaint that challenged the use of expressions of trust in God by the United States government on its coinage, currency, official documents and publications. Specifically, the action challenged the constitutionality of these practices as repugnant to the Establishment Clause of the First Amendment. The Ninth Circuit rejected the challenge: "It is quite obvious that the national motto and the slogan on coinage and currency 'In God We Trust' has nothing whatsoever to do with the establishment of religion. Its use is of a patriotic or ceremonial character and bears no true resemblance to a governmental sponsorship of a religious exercise."

Renowned atheist and separationist Madalyn O'Hair dedicated her life to abolishing any religious reference or activity from government. During the 1960's, she attacked prayer in the schools. In the early 1970's, she sought an injunction against NASA to prevent astronauts from carrying personal religious items on their space flights and to prevent them from making any references to religion. In 1978, she again challenged the use of the National Motto on coinage and currency. Relying on *Aronow*, the court dismissed O'Hair's complaint. "[I]t is easy to deduce . . . that the primary purpose of the slogan was secular; it served a secular ceremonial purpose in the obviously secular function of providing a medium of exchange. As such, it is equally clear that the use of the motto on the currency or otherwise does not have a primary effect of advancing religion. Moreover, it would be ludicrous to argue that the use of the national motto fosters any excessive government entanglement with religion."

Organizations like Americans United for Separation of Church and State and the Freedom From Religion Foundation continue to petition the courts to abolish the motto "In God We Trust." In 2006, Michael Newdow, a self-proclaimed minister of the First Amendment Church of True Science, filed suit in federal district court in Sacramento, California to challenge the use of the National Motto. Forty seven members of Congress and the American Center for Law and Justice filed amicus briefs in opposition to Mr Newdow's lawsuit. The challenge was dismissed by the Eastern District of California and Mr Newdow is contemplating an appeal to the Ninth Circuit.

So far, all petitions to remove the national motto "In God We Trust" have been unsuccessful.

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“Bill found himself meeting with his old friend, Rajiv Gandhi, now the Prime Minister of India, asking him to reverse the policy against allowing Mormon or other Christian missionaries to preach in India. Mr. Gandhi said he would take care of it. Bill felt that his life had been preparing him for that 10 minute meeting with Mr. Gandhi, to open the way for the preaching of the Restored Gospel in India.”

God's laws are real they exist in nature, they are effective and operative independent of whether we like them or not or believe them or not” Bill believed his goal in life was to discover what spiritual laws exist in nature and then conform his life to those laws

At about the same time, Bill felt impressed by the Spirit that he should contact President Gordon B Hinckley, a member of the First Presidency at that time President Hinckley agreed to meet with him and they continued to meet thereafter about every couple of weeks while Bill was studying at BYU

Bill decided to read the Book of Mormon again This time, he knew it was true and he decided to join the Church before going back to Yale to finish his divinity school degree Graduating from Yale, he found himself “all dressed up and no place to go” when the Church offered him a job as General Counsel Orient, stationed in Hong Kong

Not long thereafter, Bill found himself meeting with his old friend, Rajiv Gandhi, now the Prime Minister of India, asking him to reverse the policy against allowing Mormon or other Christian missionaries to preach in India Mr Gandhi said he would take care of it Bill felt that his life had been preparing him for that 10 minute meeting with Mr Gandhi, to open the way for the preaching of the Restored Gospel in India Although the initial numbers of visas were not as many as he requested, it was a start Bringing the gospel to India had begun---and so had the opposition

A few years later, Bill received a telephone call on Christmas Eve from President Hinckley, saying the Indian government was threatening to arrest all Mormon missionaries What was Bill's advice? “Don't pull the missionaries” President Hinckley made the decision to withdraw the missionaries but, today, the missionaries are returning

Being “like a leaf in a stream” is Bill Sheffield's guiding template As he says, when you sincerely put your life in Heavenly Father's hands, “sit up straight, fasten your seatbelt---you're in for a great adventure!”

**J. REUBEN CLARK LAW SOCIETY
ORANGE COUNTY CHAPTER**

Ongoing 2006 Events Calendar

Updated: June 12, 2006

July 13, 2006 (Thurs)

Luncheon 12:00-1:30 p m
Location: Knobbe, Martens, Olson & Bear
2040 Main St , Ground Floor Conf Room, Irvine
Speaker: Judge Jay S Bybee
Ninth Circuit Court of Appeals

October 2, 2006 (Mon)

Women Lawyers Breakfast 8:30-10:00 a m
Location: Mimi's Café, 22651 Lake Forest Dr, Lake
Forest – For All of our Chapter's Women Lawyers

September 22, 2006 (Fri)

2006 Chapter Annual Dinner 6:00-9:00 p m
Location: Westin South Coast Plaza Hotel
686 Anton Blvd , Costa Mesa
Speaker: Sister Chieko N Okazaki
Former Counselor of the LDS Church
General Relief Society Presidency - 1990-1997;
Author of "Lighten Up!" and "Being Enough"

November 16, 2006 (Thurs)

Luncheon 12:00-1:30 p.m.
Location: Knobbe, Martens, Olson & Bear
2040 Main St , Ground Floor Conf Room, Irvine
Speaker: Prof. A. Scott Loveless
Acting Director, World Family Policy Center
at J Reuben Clark Law School
"Two Competing Moralities: How They
Relate to Law and Family Policy Culture
Wars in Current Society"

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JRCLS-OC
c/o Jeffrey W. Shields
Shields Law Offices
1920 Main Street, Suite 1080
Irvine, CA 92614
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