REPORT from the Capital

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INSIDE:

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Supreme Court hears arguments in challenge to contraceptive mandate

When two corporations — one owned by evangelicals and one owned by Mennonites — filed suit over the Affordable Care Act, they described their complaint in stark and fairly simple terms: The government is forcing them to either break the law or betray their faith.

But at the Supreme Court on March 25, nothing was so clear as the justices explored the murky territory where an employer's religious rights collide with the interests of its employees or the government.

On the one side is the Hobby Lobby arts-and-crafts chain and Conestoga Wood Specialties cabinetry company, both owned by devout families. On the other is the federal government, which argues that the landmark 2010 health care law gives women a statutory right to choose among 20 methods of FDA-approved birth control.

The Court, judging from the justices' questions, is clearly divided on this potential earthquake of a religious rights case. It could be yet another instance where Justice Anthony Kennedy provides the swing vote — in this case deciding whether a for-profit corporation has religious rights and whether those rights in this case have been trampled.

Hobby Lobby, owned by the Green family, and Conestoga, owned by the Hahns, object to paying for the full range of birth control drugs and devices as required by the Affordable Care Act. To them, a handful of the methods they must cover could cause abortion. Including these methods in their companies' insurance package is, in their eyes, sinful.

Justice Elena Kagan took up the government's case from the bench, avowing that the families' religious convictions were beyond doubt. But she suggested that exempting them from the law would open the door to exemptions for a slew of employers who didn't want to cover a host of medical services — from vaccinations to blood transfusions — because they conflicted with their religious beliefs.

Kagan suggested that the corporate owners have a choice other than breaking the law and betraying their religious principles, saying "Hobby Lobby could choose not to provide health insurance." Under the health care law, the companies would have to pay a tax instead, but it would be comparable to the costs of insurance, she said. Justice Sonia Sotomayor referred to it as "another choice nobody talks about."

Paul D. Clement, the lawyer for the companies, countered that such a tax would better be described as a penalty, and that the corporations would suffer for it, having to raise wages to compensate for their lack of a health care plan. "It certainly feels punitive," he said.

Clement, a former U.S. solicitor general, leaned heavily on the language of the other law that's central to this case: the 20-year-old Religious Freedom Restoration Act, which requires the government to meet the most stringent legal test before impinging on religious rights. The government must prove a compelling interest before it abridges religious rights, and then it must also show that it has chosen the least restrictive means possible to meet its goal.

One alternative is that a third party picks up the cost, Clement said. Why can't the government, he asked, step in and pay for the methods of birth control to which these corporations object? That's essentially what it does for employers with 50 or fewer employees. "They can do the same thing for objecting religious employers," he said.

SUPREME COURT CONTINUED ON PAGE 7

Civil rights groups appeal ruling allowing NYPD to spy on Muslims

Muslim Advocates and the Center for Constitutional Rights on March 21 appealed a federal judge's ruling that affirmed the right of the New York City Police Department to spy on Muslims based on their faith and ethnicity.

In February, Newark U.S. District Judge William Martini rejected charges of illegal spying, stating that any harm suffered by the plaintiffs was not because of the spying program but because of news reports that revealed the secret program in 2011.

The appeal was filed with the 3rd U.S. Circuit Court of Appeals in Philadelphia.

"The message of the decision is that it's OK to spy on Muslim Americans," said lead plaintiff Syed Farhaj Hassan, who enlisted in the U.S. Army in 2001 and served in Iraq in 2003. "It's a slap in the face to American Muslims who have served this country, served their community, and served their families by being peaceful citizens here."

The two legal organizations argue the NYPD violated the constitutional rights of their clients based on their religion and caused them harm. They allege fear of being spied on discouraged Muslims from attending mosque or speaking in public, and it scared them from making charitable contributions to Muslim charities.

The lawsuit does not seek money for the plaintiffs, but it asks the court to stop NYPD spying in New Jersey. The suit also asks the court to order the NYPD to expunge all records of the plaintiffs collected through the spying program.

Religion News Service Photo

Syed Farhaj Hassan, 35, the first-named plaintiff in a lawsuit filed by Muslims Advocates group (on behalf of NJ Muslims) vs. the NYPD is photographed in his home in Helmetta, NJ on June 15, 2012.

Lawyers said internal NYPD documents included a list of 28 "ancestries of interest" and other policies showing that officers based their spying on the ethnic and religious background of their targets.

Since 2002, the NYPD has spied on at least 20 mosques, 14 restaurants, 11 retail stores, two Muslim elementary schools, and two Muslim Student Associations on college campuses in New Jersey, lawyers said. Forms of monitoring include video surveillance, photographing and community mapping.

The lawsuit is the first of three challenging the NYPD program.

Hassan is confident of victory, he said, because past civil rights cases, such as *Brown v. Board of Education*, also lost their first rounds before winning on appeal.

Lawyers for the plaintiffs also maintained some hope that new New York City Mayor Bill de Blasio may halt the program. While de Blasio's predecessor Michael Bloomberg resisted efforts to stop the NYPD spying program, de Blasio said police should only investigate people based on leads.

"I'm pretty sure that when we look back at this, we're going to be ashamed that we allowed this type of action to occur," Hassan said. "There's no way that peaceful citizens going about their everyday business should be spied on by police for no reason other than the color of their skin and the creed in which they believe."

—Omar Sacribey, Religion News Service

U.S. Supreme Court declines to review Episcopal Church win over Falls Church property

The Supreme Court on March 10 let stand a Virginia court ruling that allows the Episcopal Church to keep the property of a large congregation that left the denomination over theological differences.

In 2013, the Virginia Supreme Court ruled that the 3,000-member Falls Church, which voted in 2006 to leave the Episcopal Church and join an Anglican diocese, did not have the right to keep the property. It also ruled that some of the church's nearly $3 million in assets belong to the Falls Church Anglican congregation.

As is their custom, the justices on the High Court declined to give a reason for not hearing the case and allowing the Virginia Supreme Court decision to stand. The Falls Church, a landmark building in downtown Falls Church, Va., was home to one of several Episcopal congregations that left the denomination over theological differences, many stemming from the 2003 consecration of an openly gay bishop.

The Episcopal Church has fought for at least $40 million worth of church property in Virginia, according to *The Washington Post*. Similar property disputes have roiled Episcopal congregations around the country and other parts of mainline Christianity.

—Sarah Pulliam Bailey, Religion News Service

REFLECTIONS

A model of service to others

J. Brent Walker
Executive Director

A great friend of religious liberty and Baptists everywhere passed away in March. Richard E. Ice was a longtime member of the Baptist Joint Committee Board of Directors and a leader in American Baptist life who modeled service by sharing his talents and gifts and following the passions of his life.

Dick's career path is unlike most, and it is a testimony to his dedication to use his unique gifts to further causes he cared about. After working in banking, he changed career directions and earned a master's degree from the Berkeley Baptist Divinity School, which is today known as American Baptist Seminary of the West.

Dick led a congregation in Seattle, but found his true calling in sustaining church ministries. After stints in denominational leadership, he became the president of American Baptist Homes of the West (ABHOW) in 1972 and held that position until he retired in 1995. According to the organization, Ice not only positioned ABHOW as a leading provider, but "his theological and philosophical skills made him an articulate champion of older adults and mission-driven enterprises."

Dick was a lifelong student, always eager to learn more and sharpen his skills for service to others. During his career, Dick completed the Advanced Management Program of Harvard Business School, and he later received not one but *two* honorary doctorates.

And, during all of this, Dick was also focused on the fight for religious liberty, serving faithfully on the BJC board and sharing his time and resources with us. Dick's commitment to the BJC did not end with his death — he chose to ensure his legacy by including the BJC in his estate plans.

Upon his passing, Dick's family established the Dr. Richard Ice Memorial Fund with the BJC. If you would like to remember Dick with a gift to the BJC, you can do so online at **BJConline.org/donate** or by mailing a check to our office. Dick's family will be notified of all gifts, and a full listing of memorials will appear in an upcoming edition of *Report from the Capital*.

I was honored to be asked to speak at Dick's memorial service in Oakland, Calif. To the right are my remarks from that event.

Let's all strive to be like Dick Ice, giving of our talents to ministries around us. If we can do so with half of his humor and humility, then we can count ourselves successful. We will miss Dick, but his legacy will be ever present.

Words of Brent Walker at the memorial service of Richard E. Ice:

Dick Ice was a collaborator in the fight for religious liberty, a personal mentor and a good friend.

His contributions to the BJC were incalculable. He served on the Baptist Joint Committee board for 41 years — about one half of the span of his life — missing only one board meeting, when he got sick on a trip to Russia and could not get back to Washington in time.

Dick's business acumen was invaluable as chair of the BJC Endowment Committee. Yet he was not just a financial guru. He understood and appreciated Baptist principles and the American concept of the separation of church and state like few others. He was also an astute student of history who could call up the words of our Founders on the spur of the moment and, with only a little more preparation from his breast pocket file cabinet, make scholarly presentations on James Madison.

How appropriate, and overdue, it was in 2011 for Dick to receive the American Baptist Home Mission Society's Religious Freedom Award and the BJC's J.M. Dawson Religious Liberty award — our most prestigious accolade — joining the likes of President Jimmy Carter, Bill Moyers, Aidsand Wright-Riggins and Buddy Shurden.

Yes, Dick was a champion for religious liberty, but also for me, he was a mentor and friend. When I would encounter a problem, whether it be BJC finances, a difficult church/state issue, a question about Baptist polity or politics, he was always ready and willing to talk and give sage advice — not to mention those wonderful unsolicited articles and cartoons he would cut out and send.

And, just on a personal level, I remember fondly when I came to First Baptist Church Seattle to preach, he invited me to stay with him at his condo. Knowing I was a huge baseball fan, Dick arranged for us to go to a Mariners game at Safeco Field and also a boat ride to an island — I guess some place out in Puget Sound — where a group of Native Americans cooked a fabulous meal of salmon and fixins on an open outdoor fire. Dick also understood how to have a good time and share it with friends!

Dick's many contributions to the BJC have advanced the cause of religious liberty and his many acts of kindness and hospitality have embellished my life uniquely.

Thank you, Dick, my colleague, mentor and friend, and thanks be to God for the life of Dick Ice.

In this 2011 photo, Dick Ice receives the J.M. Dawson Religious Liberty Award from Brent Walker. The award is the BJC's highest honor, recognizing those who contribute to the fight to protect the free exercise of religion and church-state separation.

Meyerson: 'Cherry-pickers' misrepr

Two days of lectures at Baylor University shined a spotlight on the relationship between church and state and those who would misrepresent history to serve their own purposes.

University of Baltimore professor Michael Meyerson delivered two lectures on the campus of Baylor University in Waco, Texas, on April 1-2 as part of the 2014 Walter B. and Kay W. Shurden Lectures on Religious Liberty and Separation of Church and State.

Before Meyerson delivered his first lecture, Baptist Joint Committee Executive Director Brent Walker preached in a chapel service at Baylor's Truett Theological Seminary, warning against the dangers of government-promoted religion. He reminded the audience that, in spite of Baptists' diversity and disagreements on some issues, a historically grounded, biblically based commitment to religious liberty for all people has united Baptists for four centuries.

"We have taken seriously the liberty for which Jesus himself broke the yoke of slavery and set us free. This was our birthright in the 17th century, our rallying cry today and, I pray, our legacy four centuries from now," he said. "Our understanding of religious liberty involves no less than the freedom to worship God and to follow Jesus without efforts by government to advance or inhibit religion — someone else's or our own."

However, Baptists likewise have recognized the limits of freedom, particularly responsibility to others and duty to the government, Walker added.

First Amendment freedoms "are not absolute," he said, pointing out religion cannot be exercised in a way that harms others, free speech does not include inciting riots or falsely defaming someone, and the right to assemble is subject to reasonable restrictions on time, place and manner.

"These twin pillars of our constitutional architecture — no establishment and free exercise (of religion) — require that government neither help nor hurt religion," he said. "Rather, government must be neutral toward religion, turning it loose to flourish or flounder on its own.

"The best thing government can do for religion is simply to leave it alone," Walker said.

Meyerson made two presentations for the Shurden Lectures, speaking at an event sponsored by the Baylor Department of Religion and another at the


Photo: Constance Atton

Meyerson

Baylor Law School. A professor of law and Piper and Marbury Faculty Fellow at the University of Baltimore, Meyerson stressed the point that contemporary Americans who cite isolated quotes by the nation's Founders to buttress arguments in favor of a Christian nation or a secular society without religious influences misinterpret history and do injustice to those who framed the U.S. Constitution.

He said America's Founders sought to strike an equilibrium in the relationship of church to state. "The cherry-pickers have forced people into camps" and created a false division the Founders never intended, said Meyerson, author of *Endowed by Our Creator: The Birth of Religious Freedom in America*.

While some early American patriots, such as Patrick Henry, advocated state support for religion, the key Founders — George Washington, Benjamin Franklin, Thomas Jefferson and James Madison — held a sophisticated view that saw the value of religious commitment by citizens but the danger of sectarian division that would emerge from a wedding of church and state, he noted.

The Founders sought to strike a balance on the issue and compromised to produce a solution that avoided partisanship.

"They understood the complexity of this issue better than we do," Meyerson said. "They understood the solution had to be nuanced and had to be complicated — not beyond understanding, but not a simple 'never or always.' And that's what they worked on — that compromise."

Founders of the nation agreed on a respectful vision that religion is scarred with unbelievable evil, yet also graced with equally unbelievable good, he noted. Their goal was to formulate a standard on the issue of church and state relations that united the nation, rather than creating a mandate that brought division.

"They wanted to separate church and state but not necessarily God and state," he said. "They were most afraid of sectarianism, but they never intended to eliminate all discussion of God and religion from the public sphere."

Furthermore, deeply religious Ameri-

2014 Shurden Lectures


Photo: Constance Atton

Baylor professor Doug Weaver introduces the lectures.

Holly Hollman speaks at a Truett Seminary luncheon.

Meyerson speaks to students

resent Founders' church-state views

cans — such as Virginia Baptist preacher John Leland — voiced strongest support for separation of church and state as the best way to protect liberty of conscience, Meyerson said.

Leland possessed an "extraordinarily inclusive" vision of religious liberty for all people, including those with whom he disagreed, and an aversion to receiving any benefits from government to advance his own religious views, he said.

During a controversy in Virginia over a bill to levy a general assessment to support teachers of religion, two key petitions circulated to rally opposition to the tax. About 1,500 people signed Madison's "Memorial and Remonstrance." A Baptist-generated petition Leland spearheaded drew about 5,000 signatures, Meyerson noted.

When Madison ran for the first Congress, Leland strongly supported his candidacy, but not until he secured from Madison what Meyerson called "the most important campaign promise ever — and not just because it was kept."

Madison pledged to introduce a constitutional amendment to protect liberty of conscience — the First Amendment, which begins, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Later, after he moved back to his home in Cheshire, Mass., Leland delivered the celebrated "Cheshire Mammoth Cheese" as a gift to President Thomas Jefferson, celebrating the victory of the advocate of church-state separation. Stamped across the top of the 1,200-pound block of cheese was the slogan: "Rebellion to tyrants is obedience to God."

Leland — and other religious leaders who shared his perspective — "didn't want the combination of church and state, but they didn't mind the combination of church and politics," Meyerson observed.

Neither Baptists like Leland nor the Framers of the Constitution wanted the government involved in either advancing or inhibiting religion, he insisted.

"They knew their religion and their religious freedom depended on full liberty of conscience and the government not rooting for, not helping, not manipulating and not controlling the religion of individuals," he said.

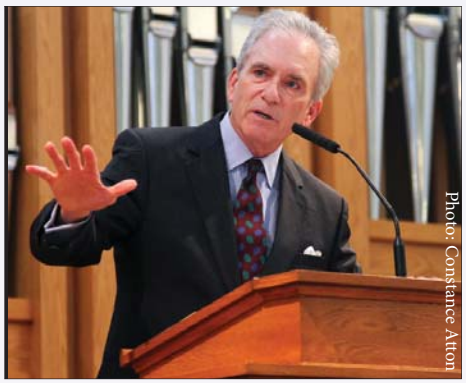
Photo: Constance Atton

Walker

Meyerson noted the fathers of the Constitution concurred with Thomas Jefferson's stance that "no man should be propelled to frequent or support religious worship, suffer on the account of religious opinions, and your religious opinions should not diminish, enlarge or affect your civil rights."

At the time the Constitution was drafted, Congregationalists made up 71 percent of the population in Massachusetts, but outside Massachusetts, religious diversity was the standard in the nation, Meyerson said. Congregationalists were only 20 percent of the total population, and there were many powerful mid-sized religious groups, he said. Additionally, 3 percent adhered to Judaism.

The multiplicity of religious groups forced the Founders to view religion through a different lens, Meyerson noted.

"The United States was so religiously diverse that if you wanted to unite the nation, you had to view religion and government very differently," he said.

With the national imperative of how to unite a nation on the basis of government and religion in mind, the Founders worked diligently to avoid in their writing language specific to any one religion.

"To Jefferson, a word like 'God' could be ambiguous or have multiple meanings," Meyerson said. "He understood that language had multiple meanings and that was not only fine, but it was preferable."

This year marked the 9th installment of the annual Shurden Lectures, which were endowed by Dr. Walter B. Shurden and Dr. Kay W. Shurden of Macon, Ga., with a gift to the BJC. Above all, the Shurden Lecturer is someone who can inspire and call others to an ardent commitment to religious freedom and the separation of church and state.

During the event, Baptist Joint Committee staff members also spoke at other special events on Baylor's campus, including at student and faculty luncheons and in classrooms, and staff later traveled to churches and schools in other areas of Texas.

Designed to enhance the ministry and programs of the Baptist Joint Committee, the Shurden Lectures are held at Mercer University every three years and at another seminary, college or university the other years. In 2015, the series will return to Mercer.

—Original material from The Baptist Standard, with reporting by Ken Camp and Daniel Wallace. Additional material provided by BJC Staff Reports.


Photo: Constance Atton

during his first lecture.

Charles Watson Jr. addresses a Baylor class.

Meyerson speaks with a student during a book signing.

K. Hollyn Hollman
General Counsel

Contraceptive mandate oral arguments shed light on underreported issues

Many issues are at play in *Sebelius v. Hobby Lobby Stores Inc.* and *Conestoga Wood Specialties Corp. v. Sebelius*, pending in the U.S. Supreme Court. The cases involve claims by for-profit businesses challenging the Obama administration's contraceptive mandate — the requirement, under the Affordable Care Act, that most employer-provided health insurance plans cover all FDA-approved methods of contraception. The businesses seek relief under the federal Religious Freedom Restoration Act (RFRA), which became law in 1993 and has only been reviewed twice by the Court.

The cases have inspired intense debate among scholars and advocates about a number of legal issues relating to the interpretation of RFRA and the future of religious liberty. At the Supreme Court oral arguments last month, the two sides had the opportunity to highlight their best arguments and to try to allay the justices' concerns about possible ramifications of a ruling in favor of either party. The arguments covered a broad range of issues, including whether and how for-profit corporations can exercise religion and how the law's exemptions for religious employers affect the government's ability to prove it has a compelling interest in applying the mandate to the objecting employers in these cases. While many of the arguments were expected, I was particularly struck by two issues that previously had not received much attention outside academic circles.

First, in addition to the expected slippery slope arguments about employers who might oppose providing insurance that covers other medical treatments, such as blood transfusions or vaccinations (or all medical treatments), concern arose about the government's practical ability to accommodate the particular religious claim at issue. The plaintiffs' claims were based upon their religious belief that certain kinds of contraception are sinful and that the mandate makes them "complicit in" the use of those contraception methods by their employees.

On its face and supported by its legislative history, RFRA certainly allows any claim of sincerely held religious belief that is substantially burdened by the government to have its day in court. Obviously, that does not mean it will win when weighed against the government's interests. Counsel for the businesses properly noted that RFRA requires each case to be analyzed on its own, but that in some of the hypothetical cases presented, the government may have a stronger interest that would override those claims.

The more novel issue was how far the claims of complicity can or should extend. What if an employer's opposition to certain contraception methods goes not only to providing health insurance plans that cover them, but also to acting in any way that would otherwise allow the employees to obtain it? Can those kinds of religious claims receive the same protection as claims that are more direct? The government has provided an *accommodation* for religiously affiliated employers that object to certain or all contraception. Accommodated employers do not have to provide the objectionable methods in their health plans, but their employees can obtain the benefit directly through the insurance company. Yet several such employers, including the Little Sisters of the Poor and Notre Dame University, have sued claiming that having to complete the paperwork that triggers the accommodation still forces them to facilitate the employee's ability to ultimately obtain the objectionable contraception. The significance of that point was underscored in *Hobby Lobby* as counsel for the businesses suggested that his clients have *both* a religious obligation to provide employee health insurance *and* a religious obligation to avoid the inclusion of certain contraception methods.

Second, and probably more importantly, several justices emphasized that employers are not actually mandated to be involved in contraception coverage at all. There is no legal obligation for them to maintain employee health insurance plans. They may instead elect to pay a tax to help support the government subsidies that are available to those who must buy a health insurance plan from a source other than their employer. Justices Elena Kagan, Anthony Kennedy and Sonia Sotomayor suggested during oral arguments that the cost of the tax will likely be far less than the cost of maintaining an employee plan. Therefore, as Georgetown Law Professor Marty Lederman has written, it is unclear whether the law substantially burdens plaintiffs' religious exercise, a question that may depend on variables particular to an employer's workforce and the labor market in any given case.

Whether these two issues turn out to be decisive remains to be seen when the Court issues its opinion. In addition to raising important legal questions about RFRA and religious freedom generally, these cases have also demonstrated the need for more public debate within religious communities and beyond about important ethical issues. On that front, I note with appreciation a recent opinion article by Professor David Gushee, director of Mercer's Center for Theology and Public Life, published by the Associated Baptist Press. As Gushee suggests, we should all ask ourselves the hard questions about contraception, health care, and the government's role in each.

Court upholds city's ability to ban worship in schools

A new ruling in a fight over churches meeting in New York City schools is bringing a case that began in 1995 back into the headlines.

On April 3, the 2nd U.S. Circuit Court of Appeals reversed a federal district court decision and ruled that the city's prohibition on religious worship services in schools — even after hours — is constitutional, denying the Bronx Household of Faith's challenge that the city's policy violated its religious liberty rights.

In June 2011, the 2nd Circuit rejected the church's claim that the city policy violated its free speech rights. The U.S. Supreme Court denied Bronx Household's request for review of that decision in December 2011, which opened the door for the church to pursue a claim that the ban violated the church's rights under the religion clauses of the First Amendment instead of free speech rights.

This latest decision does not ban religious groups from using public school facilities; rather, it holds that the city's policy prohibiting religious worship services in public schools is consistent with the Constitution.

—BJC Staff Reports

Supreme Court declines review of photography discrimination case

The U.S. Supreme Court will not hear a controversial case involving a New Mexico photography company's right to refuse to photograph same-sex weddings because of religious belief.

On April 7, the Court declined to review *Elane Photography v. Willock*. That leaves the lower court ruling in place, which said the refusal violated New Mexico's civil rights laws. Those laws require a commercial photography business to serve same-sex couples as it would opposite-sex couples; the court found no exception for expressive professions.

—BJC Staff Reports

Mississippi RFRA signed into law

After weeks of debates and revisions, Mississippi Gov. Phil Bryant signed his state's Religious Freedom Restoration Act (RFRA) into law April 3. The language of the bill uses some of the same language found in the 1993 federal RFRA, providing that state action shall not "substantially" burden a person's right to exercise religion unless it is the least restrictive means of furthering a compelling governmental interest.

Supporters and opponents of the new law disagree on its impact. While some see it as a protection for religious freedoms, others fear it could lead to state-sanctioned discrimination, particularly against the LGBT community.

The principle behind the bill is that religious practice based upon sincere religious belief should be protected from unnecessary government intrusions. In addition to the federal government, 18 other states have some version of a RFRA, and another dozen states interpret their state constitutions to provide similar protections.

Another section of the Mississippi RFRA bill adds "In God We Trust" to the state's official seal.

—BJC Staff Reports

SUPREME COURT CONTINUED FROM PAGE 1

And don't worry about company after company stepping up to claim exemptions the Green and Hahn families are entitled to, Clement said. With them, their religious sincerity is obvious. But an onslaught of corporations claiming exemptions under RFRA? "That's not going to happen in the real world," he said.

But Kagan retorted that courts have long avoided getting into the business of judging religious sincerity.

Solicitor General Donald B. Verrilli, who argued the government's case, tried to poke holes in Clement's position by first questioning whether the companies have a right to sue under RFRA in the first place. He argued that a secular corporation does not have religious rights.

If the Court decided that such companies do have religious rights, it would be "a vast expansion of what Congress thought it was doing" in passing RFRA in 1993.

But Chief Justice John Roberts suggested that though the companies themselves might not have a religious conviction, that doesn't mean they don't have the right to be protected from religious discrimination. He made a comparison:

"Every court of appeal to have looked at the situation (has) held that corporations can bring racial discrimination claims as corporations," Roberts said. "Now does the government have a position on whether corporations have a race?"

"Yes," Verrilli replied. "We think those are correct and that this situation is different."

Looming in the background of the case was the Court's 2010 *Citizens United* ruling, in which the Court decided that corporations have free speech rights. Supporters of the families behind Hobby Lobby and Conestoga have argued that surely other First Amendment rights extend to corporations as well.

Justice Antonin Scalia brought up a potential weak point in the government's case: that because it has granted exemptions to the Affordable Care Act, the administration cannot prove that the law is designed to advance a "compelling interest." Businesses with 50 or fewer employees don't have to comply, and neither do churches.

As for a compelling interest, "you can't argue that here because the government has made a lot of exemptions," Scalia said.

Verrilli said that's a misconception. Yes, churches are exempt, but churches and other houses of worship have always enjoyed special treatment under the law.

Other religiously affiliated groups are mistakenly considered exempt, he said, when they have been accommodated: Their employees can still receive birth control.

As for employers with 50 or fewer employees, the Affordable Care Act exempts them now, Verrilli said. But that's typical of important federal laws, such as the ACA and the Americans with Disabilities Act: It takes time before the law is applied to all.

"The right of the third-party employees are at center stage here," Verrilli said, but they are not always treated that way. "They're left on the sidelines."

The Court's decision in the twin cases, *Sebelius v. Hobby Lobby Stores Inc.* and *Conestoga Wood Specialties Corp. v. Sebelius*, is expected by late June.

—Lauren Markoe, Religion News Service with BJC Staff Reports

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REPORT from the Capital

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Religious Liberty Council Luncheon tickets now on sale

White House official to headline annual event


Rogers

Tickets are now available for this year's Religious Liberty Council Luncheon, to be held June 27 in Atlanta, Ga., in conjunction with the Cooperative Baptist Fellowship General Assembly. **Melissa Rogers**, special assistant to the president and the executive director of the White House Office of Faith-based and Neighborhood Partnerships, is this year's keynote speaker.

Tickets are $40 for individuals and $400 for a table of 10. Visit us online at **BJConline.org/luncheon** to purchase your tickets today, or call our office at 202-544-4226.

The luncheon is open to the public, but you must have a ticket to attend. Last year's luncheon sold out in advance — be sure to reserve your place to hear from Rogers and connect with other supporters of religious liberty and the Baptist Joint Committee.

Rogers, who was appointed to her current position in 2013, was the BJC's associate general counsel from 1994-1999 and general counsel from 1999-2000. She also served as director of the Center for Religion and Public Affairs at Wake Forest University Divinity School and a nonresident senior fellow at The Brookings Institution.

For questions about the annual luncheon, contact Development Director Taryn Deaton at tdeaton@BJConline.org or 202-544-4226.

The Cooperative Baptist Fellowship General Assembly, which will be taking place surrounding the time of the luncheon, is free and open to the public. For more information on the assembly and to register for it, visit **TheFellowship.info/assembly**.

2014
Religious Liberty Council Luncheon
Friday, June 27
11:30 a.m.
Regency Ballroom
at the Hyatt Regency
Atlanta, Ga.
Tickets: $40

BJConline.org/luncheon