

White House intervenes in Supreme Court case to back prayer at town meetings

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On September 12, US Solicitor General Donald B. Verrilli, Jr. filed a motion to appear at oral arguments and present an *amicus curiae* brief before the US Supreme Court in the case of *Town of Greece v. Galloway*. The case concerns the legality of opening town meetings with a prayer and is slated to be heard by the Supreme Court next year.

The Obama administration is intervening on the side of Greece, New York authorities, who are seeking to overturn a ruling last year by the US Court of Appeals for the Second Circuit upholding a suit by citizens of the town, located near the city of Rochester. The suit, filed by Susan Galloway and Linda Stephens, a Jew and an atheist respectively, seeks to end the prayers on the grounds that they violate the First Amendment's ban on the establishment of religion.

The intervention by the White House in support of official sanction for religion represents one of the most direct and open federal attacks on the separation of church and state—a core democratic principal of the US republic enshrined in the first sentence of the Bill of Rights—in American history. That the revolutionary founders who drafted the Bill of Rights, inspired by the Enlightenment, considered the ban on any official state sanction of religion fundamental to all other democratic rights is indicated by the fact that it precedes the First Amendment's guarantees of freedom of speech, press and assembly.

The Obama administration's decision to intervene in opposition to the separation of church and state is entirely in line with its general assault on democratic rights and its ceaseless efforts to placate and encourage the most right-wing political forces in the country. It follows Obama's capitulation last year to the Catholic Church and other anti-abortion forces that oppose a provision of his health care overhaul requiring employers to provide contraceptives to their employees free of charge.

It also conforms to the administration's support for indefinite detention without judicial process for alleged terrorists, its practice of extra-judicial assassinations, including of US citizens, and its defense of state surveillance of the telephone calls, emails, text messages and Internet

searches of all Americans and countless millions of people around the world.

Greece, New York is a town of 94,000 people in Monroe County. Residents Galloway and Stephens sued the town in federal court in 2008 due to its practice of opening its monthly meetings with a prayer, typically offered by a chaplain of one or another Christian denomination. The town conducts its public business at such meetings, including voting on proposed ordinances, swearing in new employees, holding public hearings and bestowing awards.

The trial court granted the town's motion for summary judgment in 2010. In May 2012, the US Court of Appeals overturned the trial court ruling.

The Second Circuit found that the town meetings had been previously opened with a moment of silence, until 1999, when Town Supervisor John Auberger began inviting local clergy to start the meetings with a prayer. A typical prayer requested that those present bow their heads and concluded by saying "we pray," and "Amen."

Between 1999 and 2007, a Christian clergyman offered every such prayer. These most often included references to specifically Christian dogma, for example, "in Jesus' name we pray," "we ask this in Christ's name," or "in the name of the Lord and Savior Jesus Christ, who lives with you and the Holy Spirit, one God for ever and ever."

The prayers were part of the meeting minutes. The monthly prayer-giver received a plaque from the Town Board thanking him or her for performing the service of "monthly chaplain."

After complaints by Galloway and Stephens, the town allowed for a token participation by non-Christian clergy, including a Jew, a Buddhist, a member of the Bahai faith and a Wiccan priestess, all of whom made theistic invocations of a more general character.

The First Amendment to the United States Constitution states: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to

petition the Government for a redress of grievances.”

The Fourteenth Amendment extends this ban (“Congress shall make no law, etc.”) to state governments. Municipal governments, such as the town of Greece, derive their authority from state law.

The American revolutionaries understood that there was an inextricable connection between the union of clerical and state power and the suppression of individual liberty. Their view was that separation of church and state was a precondition for democracy.

To cite Thomas Jefferson’s famous quotation: “Believing with you that religion is a matter which lies solely between Man and his God, that he owes account to none other for his faith or his worship, that the legitimate powers of government reach actions only, and not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should ‘make no law respecting an establishment of religion, or prohibiting the free exercise thereof,’ thus building a wall of separation between Church and State.”

The Second Circuit did not explicitly find that the town’s official prayers were unconstitutional. It handed down a more limited ruling focusing on the tendency of the town officials to favor clergy of the Christian faith.

Even this narrow ruling against the town of Greece was too much for the Obama administration.

The Obama administration solicitor general’s brief argues that Supreme Court precedent not only allows prayer at legislative meetings, but forbids the courts from scrutinizing whether most or even all of such prayers derive from a single religion, in this case, Christianity. The brief claims that constitutional precedent “calls for neither that type of inquiry into the content of the prayers nor that type of court-ordered sectarian diversity.” In other words, a legislative body is within its rights to feature exclusively Christian invocations at the commencement of every meeting. This represents exactly the type of establishment of religion that the American revolutionaries feared.

Obama, a one-time professor of constitutional law, invokes religious obscurantism quite frequently, especially when he gives official pronouncements on the mass shootings and other “senseless” events whose social roots he seeks to conceal. Now the president lines up with the fundamentalist, anti-democratic position of Christian-right groups like the one funding the town of Greece’s defense, the Arizona-based Alliance Defending Freedom.

This outfit bears the motto “For Faith. For Justice.” It boasts over 150 interventions in cases like *Town of Greece*. Its web site features an appeal for people to donate to a fund fighting against “anti-Christian extremists” in “powerful groups... promoting approval of homosexual behavior,

encouraging students to explore their sexual identity [and] inviting young children to learn about sex at younger and younger ages.”

It is worthwhile comparing Obama’s contempt for the establishment clause to the attitude articulated by John F. Kennedy when he was running for president in 1960, seeking to become the first Catholic to hold the highest US office. In remarks that were, at the time, considered to be a clear summation of the consensus of the US political establishment on the issue of church and state, he told a meeting of Protestant ministers in Houston, Texas on September 12, 1960:

I believe in an America where the separation of church and state is absolute—where no Catholic prelate would tell the president (should he be a Catholic) how to act, and no Protestant minister would tell his parishioners for whom to vote—where no church or church school is granted any public funds or political preference—and where no man is denied public office merely because his religion differs from the president who might appoint him or the people who might elect him.

I believe in an America that is officially neither Catholic, Protestant nor Jewish—where no public official either requests or accepts instructions on public policy from the Pope, the National Council of Churches or any other ecclesiastical source—where no religious body seeks to impose its will directly or indirectly upon the general populace or the public acts of its officials—and where religious liberty is so indivisible that an act against one church is treated as an act against all.

Kennedy’s remarks serve as a measure of the decay of American democracy in the intervening period and the collapse of democratic consciousness within the US ruling elite and its political establishment.



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