

SCALIA—RELIGIOUS NEUTRALITY IS BUNK



Bill Donohue defends Supreme Court Justice Antonin Scalia's remarks that were given at Archbishop Rummel High School in Metairie, Louisiana on January 2:

Supreme Court Justice Antonin Scalia said that the Constitution was never meant to be neutral about religion. Indeed, he said, "there is no place for that in our constitutional tradition." He admitted that "you can't favor one denomination over another," but that doesn't mean that religion cannot be favored over non-religion.

Scalia's comments have ignited a firestorm. For example, professor Jeff Schweitzer accuses him of "gross ignorance unbecoming of a justice of the Supreme Court." The marine biologist should stick to studying fish.

Scalia's critics say he ignores the meaning of the establishment clause which supposedly bars government aid to religious institutions. In fact, it was written in support of the primary clause, the free exercise clause. University of South Dakota law professor Patrick M. Garry, author of *Wrestling with God: The Courts' Tortuous Treatment of Religion*, notes that "The first and foremost concern of the framers of the First Amendment was not to create a separation of church and state, but to guarantee religious freedom. And the absence of an established church was just one aspect of achieving freedom of religion."

Garry demolishes the idea that the First Amendment is neutral about religion. "The First Amendment framers did not intend to strip religion of its uniqueness, or to make it exactly equal to every secular institution in society. To the contrary, the establishment clause aims only to keep government from singling out certain religious sects for preferential treatment, not from showing any favoritism to religion in general."

The founders publicly funded the building of churches, paid for the salaries of ministers, and allowed for state churches. That has changed, but Scalia is right to say that there is nothing in the Constitution that requires the government to be neutral about religion.