

The background of the cover is a dramatic, high-contrast image of the Statue of Liberty. She is shown from the chest up, holding a torch aloft in her right hand. The torch's flame is a bright, glowing orange and yellow, set against a dark, almost black sky. The statue's face and crown are rendered in a dark, blueish-grey tone. A large, flowing yellow ribbon is visible on the left side of the image, partially overlapping the statue's arm. The overall mood is one of solemnity and defiance.

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On June 28, 2000, the last day of that year's term, the Supreme Court of the United States ruled (by the narrowest of margins) that the Boy Scouts has a constitutionally protected right, as a private association, to exclude from the ranks of its adult leadership an avowed homosexual. This, according to the Court, because the Boy Scouts

the War against the

Boy Scouts

By
JOHN C.
EASTMAN

asserted that part of the organization's purpose is to teach boys to be "morally straight," a phrase that, according to the Boy Scouts, includes the view that homosexual conduct, like adultery or premarital sex, is immoral. ❀ The Supreme Court took this important case because the Supreme Court of New Jersey had rejected the Boy Scouts' constitutional claims, holding that the Boy Scouts' First Amendment freedoms of speech and expressive association were not infringed because the Boy Scouts did not really have a position about homosexual conduct. In an opinion that can only be called Orwellian, the New Jersey court had refused to accept that the Boy Scouts actually believes that homosexual conduct is immoral and therefore incompatible with the virtues the organization seeks to foster. The New Jersey Supreme Court held that "the words 'morally straight' and 'clean' do not, on their face, express anything about sexuality, much less that homosexuality, in particular, is immoral."

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Of course, anyone who has been involved with the Boy Scouts knows just how absurd the New Jersey Supreme Court's statement was. Numerous trial courts had recognized the obvious clarity and consistency of the Boy Scouts' position. Unlike the New Jersey Supreme Court they had actually considered evidence before reaching a factual determination. For example, a California trial court found, in a similar case, "that sexual morality is addressed in the Boy Scout Oath and Law under the rubric of 'morally straight' and 'clean'"; "that the Boy Scouts of America as an organization has taken a consistent position that homosexuality is immoral and incompatible with the Boy Scout Oath and Law"; and that "this is the view that is communicated whenever the issue comes up."

For nearly a century the Boy Scouts has been singularly successful in its mission of instilling in young boys a sense of their moral obligations to God, country, and family. Such moral training was thought by the Founders to be essential in a republican form of government. The Declaration of Rights affixed to the beginning of the Virginia Constitution of 1776, for example, provides "that no free government, or the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles." The Massachusetts Constitution of 1780 echoes the sentiment: "The happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion, and *morality*." And



The Boy Scouts of America, as an institution wrong, just as it believes that adultery and premarital

The New Jersey Supreme Court rested its opinion in part upon the claim, grounded in moral relativism, that the Boy Scouts itself rejects the idea that there is any objective basis on which to make claims about the morality or immorality of homosexual conduct, or anything else, for that matter. According to that court: "Although one of BSA's stated purposes is to encourage members' ethical development, BSA does not endorse any specific set of moral beliefs. Instead, 'moral fitness' is deemed an individual choice." The New Jersey court found support for this astonishing conclusion in the following passage from the Boy Scouts' *Scoutmaster Handbook*: "Morality . . . concerns the 'principles of right and wrong' in our behavior, and 'what is sanctioned by our conscience or ethical judgment.'"

The New Jersey court's reading ignores the distinction between "good conscience," on the one hand (to which the passage clearly refers), and "bad conscience" and "unconscionable" conduct, on the other. The New Jersey court's reading of the Boy Scouts' code, therefore, cannot be more wrong, nor more at odds with the idea of virtue regarded by our nation's founders as a necessary prerequisite of republican government.

the Pennsylvania Constitution of 1776 went even further, asserting that "laws for the encouragement of virtue, and prevention of vice and immorality, shall be made and constantly kept in force, and provision shall be made for their due execution."

But perhaps the clearest example of the Founders' views was penned by James Madison, writing as Publius in the fifty-fifth number of *The Federalist*: "Republican government presupposes the existence of [virtue] in a higher degree than any other form. Were [people as depraved as some opponents of the Constitution say they are], the inference would be that there is not sufficient virtue among men for self-government; and that nothing less than the chains of despotism can restrain them from destroying and devouring one another." In short, the Founders viewed a virtuous citizenry as an essential precondition of republican self-government.

The Founders were also fully cognizant of the fact that virtue must be continually fostered in order for republican institutions, once established, to survive. Most of the leading Founders, therefore, turned their attention at one time or another to education. Perhaps the best example, but by no means the only one, of this senti-

ment is expressed in the Northwest Ordinance, adopted by the first Congress for the government of the territories: "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." The Massachusetts Constitution of 1780 contained a similar sentiment: "Wisdom and knowledge, as well as virtue, diffused generally among the body of the people [are] necessary for the preservation of their rights and liberties."

Moreover, the Founders believed that the task of fostering moral excellence in the citizenry was intimately tied to religion. President George Washington noted in his Farewell Address, for example, that "reason and experi-

believes that homosexuality is
ex are wrong.

ence both forbid us to expect that national morality can prevail in exclusion of religious principle." Another prominent Founder, Benjamin Rush, of Pennsylvania, was even more stark in his assessment: "Where there is no religion, there will be no morals."

Today much of the moral education thought so essential by our Founders is no longer provided in the public schools. As a result, the teaching of morality and virtue—thought so necessary to our republican form of government—is left largely to private associations, primarily churches and groups such as the Boy Scouts.

It is fortuitous, then, that the Founders did not rely on public institutions alone to foster a virtuous citizenry, but rather encouraged the development of private associations that, like the Boy Scouts, were devoted to the development of moral character. As Alexis de Tocqueville observed more than a century and a half ago in his insightful work, *Democracy in America*, "[the intellectual and moral associations in America] are as necessary as the [political and industrial associations] to the American people, perhaps more so."

The Boy Scouts has always exemplified—and to many still exemplifies—that which is honorable, decent, and right. As the Supreme Court

of Kansas recently recognized, the Boy Scouts "tends to conserve the *moral*, intellectual, and physical life of the coming generation." The organization seeks to instill in the coming generation a key element of what our Founders thought necessary to republican self-government, namely, the ability for each individual to govern himself morally and to control the baser passions of his human nature.

The Boy Scouts of America, as an institution, believes that homosexuality is wrong, just as it believes that adultery and premarital sex are wrong. It exists, in part, to foster those beliefs among the boys whose parents involve them in scouting and to teach boys respect for family as the cornerstone of civilized society. Its mission in this regard is consistent with the teachings of most major religions and in accord with the law of most civilized peoples throughout history. The Boy Scouts has been immensely successful as an organization in no small measure because it has remained true to the moral teachings that have shaped its purpose from its beginning nearly a century ago. It seeks to instill in the next generation of our citizenry the kind of moral

virtue that our Founders thought so essential to the perpetuation of our republican institutions and ultimately our freedom.

The attack on the Boy Scouts is grounded in the claim that their position on homosexuality is nothing but a bigoted, homophobic relic of the past. The cultural elites who launched this assault have essentially redefined our understanding of virtue or, worse, claimed that there is no such thing as virtue. For two centuries, though, the people of this nation and their courts have had little difficulty recognizing the meaning of the term *virtue* taught by the Boy Scouts, as well as its opposite—at least in non-marginal cases. Certain actions, for example, have long been held to be *malum in se*—wrongful in and of themselves. In the 1878 case of *Reynolds v. United States*, for example, the Supreme Court upheld a congressional prohibition of polygamy in the Utah territory, describing polygamy as an "offence against society." More recently, in the 1974 court-martial case of *Parker v. Levy*, Justice Harry Blackmun (ironically, coming from the author of the landmark decision legalizing abortion, *Roe v. Wade*) wrote that some actions, such as "engaging in sexual acts with a chicken, or window peeping in a

trailer park, or cheating while calling bingo numbers' were so contrary to "fundamental concepts of right and wrong" that they could be punished as "conduct unbecoming an officer and a gentleman" even if they were not specifically prohibited by the Uniform Code of Military Justice. And in the 1991 nude dancing case, *Barnes v. Glen Theatre, Inc.*, the Court held that "Public nudity was considered an act *malum in se*." As Justice Antonin Scalia elaborated: "Our society prohibits, and all human societies have prohibited, certain activities not because they harm others but because they are considered, in the traditional phrase, '*contra bonos mores*,' i.e., immoral. In American society, such prohibitions have included, for example, sadomasochism, cockfighting, bestiality, suicide, drug use, prostitution, and sodomy."

Certainly homosexual conduct has for centuries been included in the list of acts generally deemed *malum in se*. Indeed, the view that homosexuality is immoral is still supported by criminal prohibitions against sodomy in many states and in the Uniform Code of Military Justice.

While it may be true, as Justice Blackmun further noted in *Parker v. Levy*, that "relativistic notions of right and wrong, or situation ethics, as some call it, have achieved in recent times a disturbingly high level of prominence in this country . . . as a justification of conduct that persons would normally eschew as immoral and even illegal," the Supreme Court's decision demonstrates that we have not yet reached the day when the law is allowed to silence those who think otherwise.

At least for now. Unfortunately, the Supreme Court's decision in June 2000 has not abated the attack on the Boy Scouts one ounce. From one end of the country to the other, local governments are being lobbied and lawsuits are being filed to bar the Boy Scouts from using public schools and public parks because the organization "discriminates" against homosexuals, or because it "discriminates" against atheists by requiring its members to acknowledge their duty to God. Major corporations and charitable institutions such as the United Way are being encouraged (or pressured) to sever their financial support of the Boy Scouts. All this because the Boy Scouts dares to insist that there is an understanding of moral virtue, shared by our nation's founders, that is rooted in our God-given human nature and therefore immutable.

Two avenues of response are open to us. We can insist that our public institutions adopt a policy of neutrality toward the Boy Scouts, letting the Boy Scouts have the same access to public schools and public parks that other organizations have. This is, in many ways, the easier response, but it is a response ultimately doomed to fail, for it essentially accepts the moral relativism upon which the assault on the Boy Scouts is grounded. It is a response that makes it impossible for a local school to open its doors to the Boy Scouts without also opening them to gay and lesbian clubs, to neo-Nazi clubs, or to any other organization that would undermine the kind of moral virtue that the Boy Scouts seeks to foster.

Alternatively, we can insist that our public institutions fully embrace organizations such as the Boy Scouts and, more important, the idea of moral virtue that they, and our nation's founders, champion. This response, of course, requires that we be "judgmental," even "discriminating," in our views of acceptable behavior. But to borrow again from Justice Blackmun's concurring opinion in *Parker*: "What is at issue here are concepts of 'right' and 'wrong.'" If we truly believe, as Justice Blackmun stated in *Parker*, that "times have not changed in the area of moral precepts," that "fundamental concepts of right and wrong are the same now as they [ever] were," we will choose this latter course. If our nation's founders were correct in their understanding that only a virtuous people were capable of self-government (and I think they were), nothing less than the perpetuation of our republican institutions and ultimately our freedom is at stake.

The challenge to the Boy Scouts' vision of morality has several aspects. Is it indeed a public institution that should be bound by civil regulations? Does the money trail of public support obligate it to conform to regulations and laws that may offend its sense of morality? Can it really expect to have the same exemptions granted to churches, which often hold views similar to those of the Scouts? There is good cause to see this organization as a victim of aggressive action to marginalize its moral worldview. There is a very real danger too in invoking some sort of moral superstate ideal. The United States was founded on moral assumptions, but the republic was consciously constructed to keep the state out of the morality issue. How to defend the rights of beleaguered groups like the Scouts and keep the state from acting as moral dictator is the challenge. □

The Play's the Thing

Mormon Christina Axson-Flynn, a drama student at the University of Utah, objected to profanity in a required script, claiming violation of her religious beliefs. In dismissing her claim U.S. District Judge Tena Campbell ruled August 3 that the words were part of a curriculum that took no position on religion and required only as an academic exercise. "You can't have a society in which everything you disagree with is in violation of your constitutional rights," said Alain Balmanno, an assistant Utah attorney general, who represented the school.

—*The Associated Press*

State Punishes Parents for their Discipline

Canadians were not sure what to make of an Elian-like raid by social workers and police on members of a Mennonite sect which had refused to promise that they would not use rods or switches to discipline their children, saying such methods are sanctioned by the Bible. Seven children were dragged screaming from their Aylmer, Ontario, home.

Within two weeks more than 100 mothers and children from the Mennonite Church of God sect in Aylmer had fled to the United States in fear of similar state action. Three weeks later the seven children were back in their own home under an interim arrangement with the family court, where the parents will spare the rod while the matter is decided.

—*The Wall Street Journal*, August 17, 2001.

Don't Hide Jesus

Back in 1998 a group called Freedom From Religion sued to have a 15-foot tall statue of Jesus removed from a public park in Marshfield, Wisconsin. The suit was dismissed when the city sold the statue to a private landowner.

On February 4, 2000, the U.S. Court of Appeals for the Seventh Circuit ordered the city to take steps to differentiate between city property and the private property where the statue sits. As a result the city erected a low wrought iron fence and a sign indicating the private property. Not enough for the Freedom From Religion Foundation, which sought to force erection of a 10-foot high concrete wall to make the statue invisible to passersby.

Commonsense won out with a May 9 ruling by U.S. District Court Judge John Shabaz that "visual separation" was not required. He accepted as adequate a city proposal for a 4-foot high wrought iron fence and a "private park" sign.

—*The American Center for Law and Justice*, May 10, 2000.

Changing Opinion!

This item might well illustrate how changes in public opinion can quickly overtake contentious issues. On August 23 of this year, the Collier County, Florida, school board voted 3-1 not to hang posters bearing the national motto, "In God We Trust." Anne Goodnight, the board chairwoman, said that "The schools and education need to remain neutral."

The sole vote for the posters, Anne Abbott said "If we look at it as history, then the law says it can be posted in public schools."

—*Crosswalk.com* news service, August 30, 2001.

A Millennium for Hungary

On August 20 this year Hungary concluded 20 months of festivities to mark 1,000 years since King Stephen introduced Christianity. Those 1,000 years included lost wars and revolutions, as well as the 1956 anti-Communist uprising. Artifacts included King Stephen's crown, a gift from Pope Silvester 2 in the year 1,000, and the king's



preserved right hand. Clergy carried the hand through the streets in celebration. Some Protestant leaders criticized the ceremony—which, apart from resonating poorly in a world appalled by amputations in Taliban justice and Sierra Leone terrorism, harks back to a supposedly forsaken past of relics and superstition.

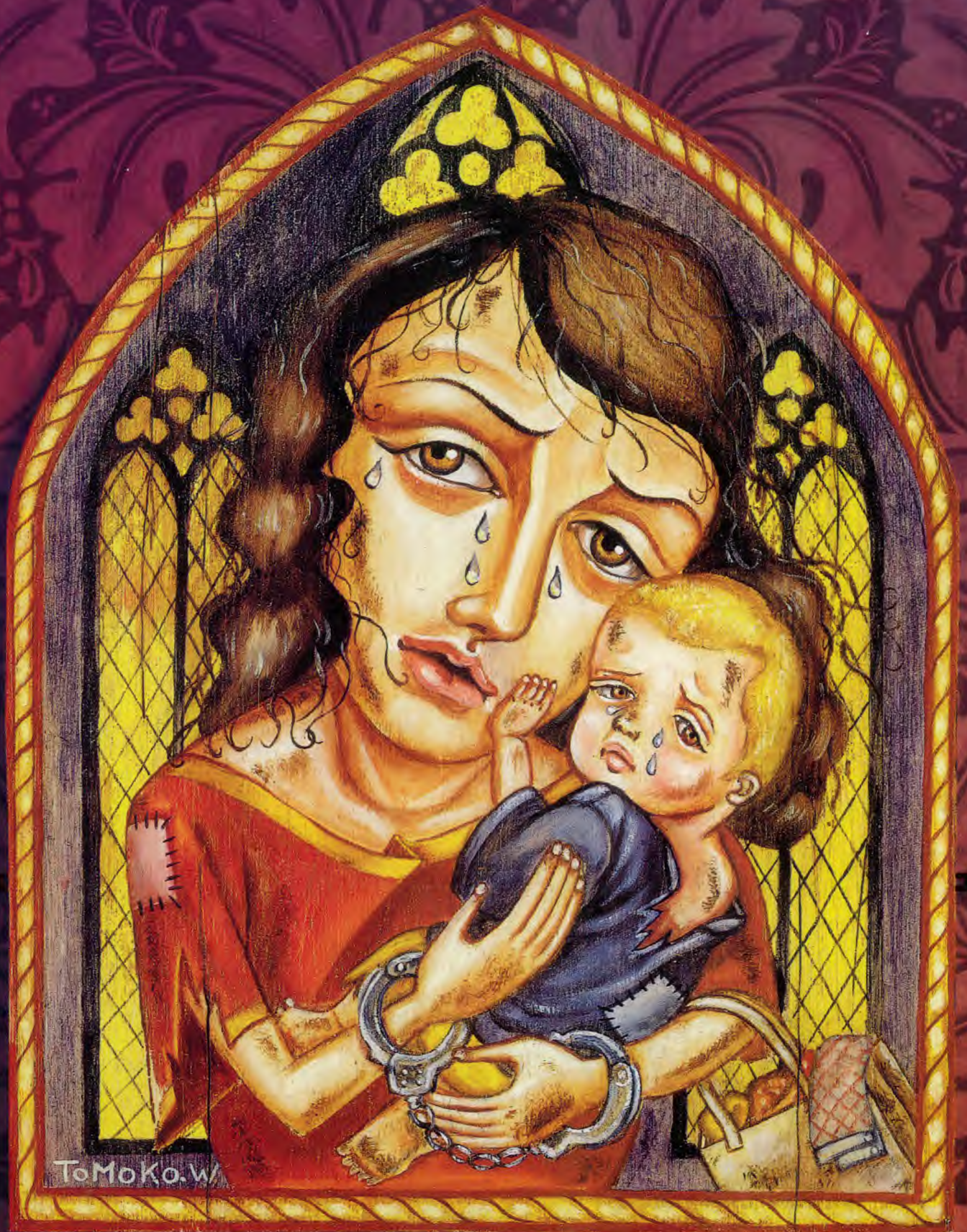
—<http://www.assist-ministries.com>

Going, Going, Clone

More than just the subject of sci-fi movies and parlor talk, human cloning has the potential to irrevocably change the way society looks at human life and the value it places upon the individual. While the debate is just beginning, two European countries—Germany and France—have called on the United Nations to negotiate a global treaty banning human cloning.

A *Catholic Register* article of August 26, quoted Vatican Cardinal Ratzinger as comparing the development of cloning with the horrible intentions of Adolf Hitler. A moral and free society should look long and hard at the implications of this scientific "advance."

Oops! A news item in our last issue used the word SNAFU. While common usage of the word is benign, some readers might have been offended at the original expression behind this acronym. We did not intend that message, and apologize if offense was taken.



ToMoKo.w

At

5:30 a.m., January 23, 2001, SWAT

police forced Pontiac, Michigan, homeless shelter residents from their beds into the wintry darkness.

Thirty-two residents were arrested on misdemeanor charges, then shackled, handcuffed, and transported to jurisdictions throughout Michigan. Police even handcuffed a 6-year-old boy. For the first time in United States history, police had raided¹ a church-based homeless shelter.² + Operating from downtown Pontiac, the county seat, Grace Centers of Hope, previously called Pontiac Rescue Mission, has served Oakland County, Michigan, since 1942. Grace Centers of Hope began as a safe place for homeless persons to sleep, and now also offers one-year substance abuse treatment, complemented by a full range of life management training, counseling, and education, plus day care for shelter children. The homeless shelter houses 150 persons nearly every night, with separate residences for men and women/children. Grace Centers of Hope accepts no government funding.³ + Thirteen years ago the shelter's administration invited Pontiac police to review shelter resident rosters. They then told the homeless community that Pontiac Rescue Mission/Grace Centers of Hope would prove a poor hiding place for persons evading the consequences of criminal action. As a result the shelter formed a close working relationship with Pontiac police. A police officer, specially detailed to the shelter, checked its rosters each week. "Grace Centers of Hope is not a hideout for criminals," avers Pastor Kent W. Clark, chief operating officer. "It is, instead, a place where people get their lives back through the gospel of Jesus Christ."⁴

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RAIDING Grace

By
CAROL JUNE HOOKER

This year however, the relationship changed. On January 9 Detective Carpenter, the Pontiac police officer assigned to Grace Centers of Hope, requested from Pastor Clark a list of everyone staying at the shelter, saying, "My superiors want it." He sent the list within 24 hours. Then on January 19 an anonymous male telephoned the shelter to say that "Grace Center of Hope is going to be raided in a smear campaign to embarrass you locally and nationally." He suggested that he had overheard a conversation in which this was discussed.

Pastor Clark contacted the office of Oakland County prosecutor David Gorcyca to ask whether a warrant had been issued for police action against Grace Centers of Hope. He learned that Prosecutor Gorcyca was in Washington, D.C., for the inauguration of President George W. Bush. Prosecutor Gorcyca's office telephoned Pastor Clark on Monday, January 22, to confirm the police raid had been called off, stating a police officer would call Pastor Clark that same day to discuss why the raid had been planned. At about 4:30 p.m. Pontiac chief of police Larry Miracle telephoned Pastor Clark. "Come to meet me in my office tomorrow at 9:30 a.m.," he said. Pastor Clark countered, "Meet me tonight—what is happening?" The telephone call ended.⁵

The next day, shortly after 5 a.m., 30 black-suited police wearing protective vests arrived at Grace Centers of Hope. Officers took mothers away from their children. One 6-year-old boy had just been reunited with his mother. When he cried and struggled, he was handcuffed. When women residents sang and prayed aloud, police forced them to stop. Warrants were not served. Miranda rights were not read. All but one of the arrestees returned to Grace Centers of Hope the same day.⁶ With one exception, the jurisdictions to which the arrestees were taken would not accept custody. In that case the arrestee was found to have outstanding felony charges against him for car theft in Ann Arbor, Michigan. But the reason for the raid given by arresting police—"Information that a rapist was at the center and that an undercover officer had made drug purchases within the month"—was not borne out by any of the arrests.⁷

Effects of the Raid

Police officers repeatedly warned Grace Centers of Hope residents that "we will be back." The police raid was very traumatic for the shelter's children; teams of counselors met

with the children for weeks. Children—and parents—asked for the lights to be left on all night. Pastor Clark estimates that 85 percent of the children have been physically or sexually abused and that verbal abuse is common. Most of the children have experienced many moves in their short lives. Substance abuse by their parents clearly worsens children's lives, for drugs and alcohol are detachers—users are totally absorbed in themselves. The 12-month substance abuse treatment focuses on creating community, including attempts to reunite children with mothers.⁸ Forcible separation of these children from their mothers during the police raid caused damage to some of the most fragile—and innocent—members of society.⁹ The child who was handcuffed at Grace Centers of Hope has, with his mother, brought lawsuit against the city of Pontiac, Michigan, charging violation of their civil rights.¹⁰

According to numerous local newspaper reports, the January police raid on Grace Centers of Hope began a concentrated push to move the shelter and its residents out of downtown Pontiac and away from potential new businesses. Several fire inspections, one held during an evening prayer meeting, revealed needs for a new fire panel and fire detection system. While recent inspections have not required these upgrades, they will be installed, as they will contribute to the safety of the residents. Pastor Kent Clark also sought to acquire alternate sites for the Grace Centers of Hope within Pontiac, but Pontiac City Council denied the requests.¹¹


Since Grace Centers of Hope is funded by private donations rather than governmental aid, community support is an ongoing concern. Press reports of the shelter's harassment by the City of Pontiac seem to have increased awareness of its work, and

donations to Grace Centers of Hope have increased. According to the *Oakland Press*, the third annual Women Helping Women fashion show, presented by the shelter's staff and residents—including Pastor Clark's daughter and assistant Shannon Grace Clark, Miss Michigan—sold out the Ritz Carlton in Dearborn, Michigan, and raised \$85,000 for women's and children's programs.¹²

Pontiac mayor Walter Moore, a Democrat, supports President Bush's plans to allow faith-based social services to compete with secular groups for federal funds, stating, "I think the strength of our city is the faith-based community." In fact, Grace Centers of Hope director Kent Clark and his daughter Shannon Grace Clark introduced George W. Bush

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at a Republican campaign rally just after the Republican National Convention in 2000, although Pastor Clark strongly opposes accepting government funds for faith-based shelter programs. He remarked, "You can become addicted to government checks." Clark attended the Conference of Mayors meeting in Detroit on January 25, 2001, to support President Bush, despite disagreement with some of his policies.¹³

"We agree we need help to find Grace Centers of Hope a new home," concludes Pastor Clark. "Inside the business loop is not best for us. We need a campus-type setting outside the business loop—an irresistible offer. Perhaps Pontiac could buy a campus site with HUD [Housing and Urban Development] dollars. What the municipality meant for evil has turned to good for us. There has been an outpouring of compassion and positive sentiment, thanks to an honest press in Michigan. Had it not been for the news media, we would have drowned."¹⁴ 

FOOTNOTES

¹ City of Pontiac, Michigan, mayor Walter Moore's office was contacted for comment June 22 and 29, 2001. Mayor's office staff demurs characterization of Pontiac police action against Grace Centers of Hope as a "raid."

² Pastor Kent Clark, chief operating officer of Grace Centers of Hope, interview with author, June 22, 2001.

³ "The Grace Centers of Hope at a Glance." As of June 29, 2001, this information could also be accessed at <http://www.gracecentersofhope.org>. Kent Clark is hardly alone in eschewing government funds for social services provided by faith-based groups. According to the June 26, 2001, *Washington Post*, the Baptist Joint Committee, the United Church of Christ, policymakers of the United Methodist Church, and most major Jewish organizations also oppose faith-based initiatives that accept government money. The Reverend Martha Overall, who leads New York City's St. Ann's Episcopal parish in feeding and tutoring 100 children after school, notes, "I believe you're undercutting the essence of religion if you're paying somebody to be religious."

⁴ Clark, interview with author, June 22, 2001.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ Kent Clark, interview with Larry Roberts of World Socialist Web site, January 30, 2001. As of June 29, 2001, this information could be accessed at <http://www.wsws.org>.

⁸ Clark, interview with author, June 22, 2001.

⁹ Nicole Tuttle, Quell Communications Group, e-mail communication with *Liberty*, April 18, 2001.

¹⁰ Tom Bouland, "Businesses Want Homeless Shelter OUT of Downtown Pontiac, Michigan, USA," Homeless Persons Network, *Homeless NEWS*, Mar. 27, 2001. As of June 29, 2001, this same information could be accessed at <http://csf.colorado.edu/mail/homeless/2001/msg00178.html>. Clark, interview with author, June 22, 2001.

¹¹ Hugh McDiarmid, Jr., "Doors Closing to Homeless: Center, Citing Pressure From Pontiac, Is to End Emergency Shelter," *Detroit Free Press*, Jan. 31, 2001; Oakland Briefs: Pontiac "Homeless Shelter Decides Not to Close," *Detroit News*, Mar. 2, 2001; Kathleen Gray, "2 Other Sites Proposed for Controversial Shelter," *Detroit Free Press*, Mar., 21, 2001; Clark, interview with author, June 22, 2001.

¹² Sybil Little, Oakland Press society editor, "Lighthouse's Expansion Is Cause for a Party: Fashion First," *Oakland Press*, June 27, 2001. As of June 29, 2001, this same information was available at www.oaklandpress.com.


¹³ Lee Dryden, "President Bush Pushes Faith-based Programs: There May Be Some Democratic Support for President Bush's Plan," *Oakland Press*, June 26, 2001. As of June 29, 2001, this same information was available at www.oaklandpress.com.

¹⁴ Clark, interview with author, June 22, 2001.

Atwater v. Lago Vista, NO. 991408

In March 1997, Gail Atwater was driving her pickup truck in Lago Vista, Texas, with her 3-year-old son and 5-year-old daughter riding in the front seat; none wore seat belts. At the time of the incident, Texas law stated that violations of these laws were misdemeanors punishable by fines of \$25 to \$50 and permitted warrantless arrest of violators. Police officer Bart Turek stopped Atwater, verbally harangued her, asked to see Atwater's driver's license and vehicle registration (unavailable, as Atwater stated her purse had been stolen the day before). Officer Turek refused Atwater permission to seek care for her crying children. He handcuffed her, placed her in the back of his squad car, and took her to jail. Fortunately, a friend of Atwater's stopped by and took charge of the children. Booking officers removed Atwater's eyeglasses, shoes, pocket contents, and jewelry, photographed her, placed her alone in a cell for an hour, then took her to arraignment before a magistrate. Released on \$310 bond, Atwater later pleaded no contest to misdemeanor seat belt offenses and paid a \$50 fine.

The United States Supreme Court heard arguments relating to this case on December 4, 2000, and decided April 24, 2001 [bracketing the January 23, 2001, incident at Grace Centers of Hope], against Atwater and her husband and in favor of the city of Lago Vista, Texas, and police officer Turek. In dissent, Justice Sandra Day O'Connor, joining with Justices John Paul Stevens, Ruth Bader Ginsburg, and Stephen Breyer, wrote, "In light of the availability of citations to promote a state's interests when a fine-only offense has been committed, I cannot concur in a rule which deems a full custodial arrest to be reasonable in every circumstance. Giving police officers constitutional *carte blanche* to effect an arrest whenever there is probable cause to believe a fine-only misdemeanor has been committed is irreconcilable with the Fourth Amendment's command that seizures be reasonable. Instead, I would require that when there is probable cause to believe that a fine-only offense has been committed, the police officer should issue a citation unless the officer is able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant [the additional] intrusion of a full custodial arrest."^{*}

The rule of law is still sacred in this country. We need to guard against unreasonable arrest and its threat used as an instrument of coercion by government agencies. 

^{*}United States Supreme Court. As of June 29, 2001, this same information was available at <http://laws.findlaw.com/us/000/99-1408.html>.

No one I know doubts the motives behind President George W. Bush's desire to help "faith-based" organizations do a better job of helping the poor and needy. The president has seen the valuable work private charities are doing. He knows, because he has experienced for himself how a message about God and redemption can change a life. He believes that private groups do a better job than government in reaching the heart and soul of people in conflict with themselves and God. He is right.

The president also believes that these charities can change even more lives if they receive money from the federal government. He has said it is unfair to discriminate against "faith-based" organizations simply because they worship an authority higher than the state. About his desire to subsidize faith-based charities with federal funds, he is wrong.

There are at least four concerns I have when government comes to the church house door and says it is there to help. One is the almost certain erosion of the base on which the life-changing faith has been constructed. Already members of the administration have acknowledged that no organization receiving federal funds would be able to share

from God. In our TV-Internet-cell-phone-Palm-Pilot-exceed-the-speed-limit culture we seem to be constantly looking for ways to maximize our work and minimize our time for the things that matter most in life. Charity is not only about receiving and what money, food, housing, and clothing can do for a needy person. It is also about giving and what such an act can produce in the giver. When Jesus said, "It is more blessed to give than to receive" (Acts 20:35, NIV),* He was talking about the "spiritual angioplasty" that

By C A

Faith- DEBATE

its salvation message with people in need. There have been suggestions of setting up separate entities. One would be free of federal support and could preach to its god's content. The other would be "secular" in the sense that the "faith-based" organization could feed, clothe, and house the body, but bypass the soul. This, it seems to me, is nothing more than a glorified welfare program that some of the more conservative groups now itching to take federal money used to criticize when liberals were on the receiving end of federal largesse. If faith becomes a choice and does not permeate all that the organization does, one might as well continue to support the existing programs, which are already devoid of faith.

The second concern I have is that churches and other religious institutions and organizations will see charity as a corporate responsibility, instead of a personal mandate

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charity brings to a hardened heart. Giving of one's self, as well as one's means, produces a spiritual blessing in the heart of the giver, which can also be used by God to truly touch the heart of the person on the receiving end of the gift. But it is the giver who receives the more important blessing, according to Jesus.

We already have too many religious professionals who will, in exchange for a contribution, feed the hungry, clothe the naked, visit those in prison, and care for widows and orphans. The call to do such things is more personal than corporate, and the blessings that come from personal obedience were designed for individuals, not organizations with the proper 501 (c) (3) tax-deductible status.

Third, when Jesus said in Matthew 9:37, "The harvest is plentiful but the workers are few" (NIV), He didn't follow up by advising His disciples to go and ask Caesar for some denarii. Lack of money was never a problem for Him, because He owned (and had created) everything. Lack of will by His followers was the problem. He says so in verse 38: "Ask the Lord of the harvest, therefore, to send out

workers into his harvest field" (NIV). It wasn't about asking Caesar. It was about asking God.

Fourth, what about the political implications? Will a future Democratic president decide to pull the financial plug on organizations that have received federal funds during the Bush years in order to "reward" faith-based programs of his choosing that may be more in tune with his political worldview? What is to stop this becoming a political football? Furthermore, who will decide which faith-

Barna reports that among churches, six out of 10 adults put money in the collection plate, with the average donation amounting to just \$649, down from an \$806 average in 1999. Some of those raising the biggest ruckus about the decline of culture give the least. While 39 percent of all adults gave nothing to a church last year, nearly one quarter of them were people who identified themselves as "born again." Since the standard most often preached is the tithe (donating 10 percent of annual income to the church, a custom only 12 percent of the born again practice, says Barna), it appears that those commanded to do the most are actually doing the least.

The reason we have so many poor and needy among us in this prosperous nation is not that government isn't doing enough. It is that people who claim to follow God are not doing enough. Allowing government to step in where only angels should be treading will diminish, not enhance, the work of faith-based groups. That's because of the inevitable restrictions government will place on their activities. That the "workers are few" is not the fault of government. It is the fault of a disobedient church population. Government cannot kindle a flame in the heart of individual worshippers, but

H O M A S

Worshiped

THE TABLE

based program is a success, and what standard will be used? And then there's the problem of religions, sects, and cults that are out of the mainstream. Will they sue if they don't get money? And how will the courts deal with such litigation?

The problem for faith-based organizations that want government help is not that they lack money. The problem is a lack of will on the part of those who should feel motivated by the love of God to reach out and touch the life of a person caught in difficult circumstances. Jesus instructed His followers to take nothing with them when they went out to preach His gospel. That seems foreign in the age of direct mail and preachers on TV who imply that the work of God will be thwarted unless you send them \$25 or more. Millions of people attend worship services every week in America, but what they give (or, more accurately, don't give) to the work of God is pathetic.

According to the Barna Research Group, reported giving to nonprofit organizations and churches was down six percent last year from 1999. The average giving per person last year was a paltry \$886, 15 percent less than the previous year.

government can help extinguish whatever spark might be fanned into a flame.

Not very many years ago private and religious charities were honored and promoted in our country, and those who engaged in charitable work were revered in their communities. We need more sermons about our responsibilities to the poor, not more help from the federal government, which has enough problems of its own without bringing it through the door of the church house and causing many believers to submit to the will of the state instead of bowing to the will of God. □

Although HR 7, the Faith-based Initiatives Bill, passed in the House back in July, it has yet to pass the Senate. In the meantime the debate continues and, given the larger aspects of the discussion, will probably continue regardless of the Senate outcome.—Editor.

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Barbara Gardner-Ihrig, a United States Postal Service employee, began her long difficult battle against religious discrimination shortly after her employment commenced in April 1986. "I made it known to them that I couldn't work on Sabbaths," Gardner-Ihrig says, "but they just blew it off, saying it shouldn't be a problem."

Gardner-Ihrig's difficulties resulted from her religious conviction, as a Seventh-day Adventist, not to work on the Sabbath, the period of time from sunset on Friday night to sunset on Saturday night. During this time she refused to work. Because her initial position was part-time flexible (PTF), Sabbath wasn't an issue at first. But Gardner-Ihrig wanted and needed to work full-time. "Everybody wants to be a regular," she says. "Then you know how many hours a day you're going to work and when your days off will be. You don't know that as a PTF."

A position opened up that she was qualified to bid on, but Gardner-Ihrig wasn't able to do that because the position would have required her to work on Sabbath. As she lacked the seniority to request the coveted weekend time off, she was prevented from making the bid. Not long after this opportunity she was called into the office and told to sign papers terminating her employment because she refused to work on the Sabbath.

"They told me there was no alternative but to sign the papers and terminate," Gardner-Ihrig says. "I did it under duress. They made me

ters in Silver Spring, Maryland. "The church attorneys and the Postal Service were able to come up with an agreement," says Amireh Al-Haddad, assistant director of public affairs and religious liberty for the Southern Union Conference of Seventh-day Adventists. "Barbara would be accommodated as a PTF employee in the central Florida postal region, without having to go to full-time and bid on her shifts." It seemed a good solution. "As far as we know, that was the first time a postal facility agreed not to force an employee to go into the labor union," remembers Al-Haddad.

In 1988, Gardner-Ihrig was reinstated as a PTF. The labor union assured her that regular work would follow just as soon as there was a position open to accommodate her religious convictions. But instead of things progressing smoothly, Gardner-Ihrig was approached five times by management in an attempt to force her into a regular position that would require her to work during Sabbath hours. With the labor union's help she was able to decline each time.

Mercifully, in 1990 a position opened up that she could "back into." Backing into the position meant that she didn't have to bid on it; the Postal Service just put her into it. The position didn't require Sabbath work. Gardner-Ihrig gladly accepted, and her employment proceeded without further difficulties until 1996, when the Post Office began to implement system automation. As a result, her position was

Stamp of

feel like I had to. And I didn't have enough knowledge to know." So for almost two years Gardner-Ihrig worked for another company, starting over at half the salary.

Gardner-Ihrig sought assistance from the Public Affairs and Religious Liberty department of the Seventh-day Adventist world headquar-

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eliminated. Her supervisor arbitrarily rescheduled everybody. Gardner-Ihrig had seniority, and she should have been able to bid on her days off. Though they had the ability to do it, supervisors did not give her the option of having Sabbath off. The assignment she received required her to work a Friday night shift instead (part of the 24-hour Sabbath).

When that happened she approached her supervisor and explained the problem. The



Loyalty

supervisor said she'd have to work. So for at least six months Gardner-Ihrig put in a request every week to receive Friday off. It was subsequently denied, and she was scheduled on Friday. So every Friday night she called to say she would not be in.

"In comparison," says Al-Haddad, "they granted requests for people of other religious faiths. A Jehovah's Witness and a Baptist were both granted requests for a change in schedule for Sundays. Barbara's requests were denied. The labor union would sign off on it; the supervisor would refuse. She was stuck in a situation in which every week she was faced with the possibility of being fired."

Gardner-Ihrig was harassed by her supervisor and began accumulating "absent without leave" occurrences on her employment record for each no-show Friday night. In addition, she was not paid for the time she did not work, effectively cutting her pay.

"We went through the very slow process of filing a complaint against the Post Office," says Al-Haddad. "It took two years from the time we first filed the grievance to the time we came up for an administrative hearing. In the hearing we sat before an administrative judge for the Equal Employment Opportunity Commission. We requested the hearing to try to obtain the Sabbath accommodation. In the hearing, we faced Barbara's openly hostile supervisor. The regional senior labor relations specialist threatened that if Gardner-Ihrig missed another

Sabbath it would be cause for termination. Witnesses we called basically lied. The supervisor was allowed to sit in with all the witnesses who were employed under her, and she glared at them the whole time. The result was that we lost."

Though the hearing did not have a positive out-

come for Gardner-Ihrig, she did receive a respite of sorts. "In reality, the supervisor could have just given her Friday/ Saturday off," says Al-Haddad. "There were maybe two other people who had that day off. In our opinion, as we reviewed the record, that would not have created an undue hardship on the Postal Service. Instead, what the supervisor decided to do, after we lost the hearing, was to create further problems by splitting her days off." Gardner-Ihrig

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By
JAMES D.
STANDISH

Freedom

in times of

FEAR

This generation will remember for our entire lives the moment we saw the World Trade Center collapse. I know I will. Sitting with others in a colleague's office we looked in disbelief as the catastrophe unfolded on a screen too small to contain the horror.

Like many Americans, our unbelief was mixed with anxiety. I wondered which, if any, of my friends who work in Manhattan were in that horrifying conflagration. As the mighty towers fell, our hearts fell with them. We felt similar shock when, only a few miles from our office, the Pentagon was attacked; and then reports came in of the downed airliner in Pennsylvania. And even though none of my friends were among the fatalities, I, like all of us, feel in my heart an immense

sorrow. There is simply no adequate way to express the collective grief we feel for those taken by acts of unspeakable brutality.

**In that moment
our world has changed**

Institutions we once looked to for security now appear fragile. It is harder to be blasé about life's most profound questions. We have a deeper sense of empathy for our fellows, and a greater



appreciation of how truly precious life is. Americans are suddenly talking about Tajikistan, Uzbekistan, Turkmenistan, Pakistan and Afghanistan. And many of us are just plain scared. We are at war against an unseen enemy; an enemy that might strike anywhere and anytime. And the enemy might well be the guy across the street, or around the corner. In all of this, we want to ensure we are safe.

Stuart Taylor of the *National Journal* summed up what many in our nation are feeling. He noted that the first enunciation of American freedoms comes in the Declaration of Independence and reads that all men are "endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." Of these liberties, he wryly noted, he is particularly fond of life. Such an assertion at a time of crisis is in keeping with Maslow's hierarchy of needs. Yes, we want liberty, but first we must have life.¹ The question then becomes what we are willing to

trade in order to ensure our personal safety. There have always been widely conflicting answers to this question.

An Historical Perspective

The questions arising from what to do about freedom during times of war is not new. Cicero famously stated that in times of war, the law is silent. This has appeared to be the case, at least in part, during times of insecurity in our own history.

John Adams, whose reputation is currently on the rise as a result of David McCullough's best selling biography, supported the Alien & Sedition

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Act of 1798. The Act, which was vehemently opposed by Thomas Jefferson, gave the state wide powers to punish those who engaged in such “crimes” as falsely defaming the U.S. Government. In the context of the numerous threats to the stability of the fledgling government, it is not surprising that it felt forced to so dramatically limit the freedoms so recently adopted (the Bill of Rights were ratified by the states only seven years prior to the passage of the Alien & Sedition Act). But the irony of such limitations in a nation “conceived in liberty” was evident even at the time of the enactment of the law.

Similar intrusions on freedom occurred during other times of national crisis. President Lincoln suspended the writ of *habeas corpus* during the Civil War. The writ of *habeas corpus* is an ancient protection of civil liberties encased in British common law, and incorporated into U.S. common law. The purpose of the writ is to provide the right of a person who is incarcerated to have a hearing at which he is told why he is being held. The suspension of the writ of *habeas corpus* resulted in people being held without charge and without access to civil courts. It was thus a most extreme limitation on liberty. Interestingly, although President

Lincoln’s suspension of the writ was subsequently found unconstitutional by the Supreme Court after the Civil War concluded, suspension of the writ in certain circumstances is explicitly permitted in the Constitution.²

During the First World War, the freedom of speech was severely curtailed. The Espionage Act of 1917, which was amended in 1918, listed a series of ambiguous offenses related to encouraging seditions. The Act provided enormous power to the government to suppress anti-war opinion, to harass nonconformists and to inhibit the dissemination of anything other than the view of the government and its supporters. At the same time, those with German connections or sympathies were frequently harassed by the state and private individuals.

At the beginning of WWII, respect for both the freedom of religion and political freedom were tested in the *Minersville School District v. Gobitis* case. A state had expelled two Jehovah’s Witness children, aged 10 and 12, because of their refusal to salute the flag. The children’s faith forbade saluting the flag. Alarming, the Supreme Court upheld the expulsions 8-1, thereby indicating that the school’s desire to create national unity trumped the free speech

Freedom **under** ISLAM

As calls were going out to defend American Muslims from vigilante attacks in the wake of the events of November 11, some calls were met with the searching question; Why should America bend over backwards to provide the kind of religious freedom to Muslims, that Islamic nations typically refuse to provide to Christians?

It is true that there is scarcely an Islamic nation on the face of the earth that provides true religious freedom: the more Islamic a country is, in general, the less tolerant it is of other religions. It is not only extremist nations such as Afghanistan, Iran and Libya that follow this trend.

America’s Islamic allies tend to be as repressive as its enemies. Saudi Arabia is a perfect

example. While the human rights record of China has frequently and justifiably been in the news and on the tips of the tongues of American politicians, the dreadful Saudi record is seldom mentioned. The U.S. State Department frankly stated in its Annual report on International Religious Freedom 2000, that “Freedom of religion does not exist” in Saudi Arabia. This view was echoed by the US Commission on International Religious Freedom which stated in its 2001 report that the Saudi government’s policies towards religion are “extremely repressive.”

Despite Saudi Arabia’s large non-Muslim population of guest workers, these non-Muslims are forbidden to engage in even the most innocuous group worship. Credible reports of the arrest and cruel treatment of non-Muslims in Saudi Arabia, charged with meeting together with fellow believers or “proselytizing Muslims,” continue to pour out of the country.

And it is not only nations considered strict Islamic states that abuse the free exercise rights of their citizens. The “moderate” state of Malaysia, for example, has laws that, according to the U.S. State Department, make it “very difficult for Muslims to change their religion

and free exercise rights of citizens.

The intrusion on freedom during war that is most current in our collective memory is the internment of Japanese Americans during the Second World War. The removal and internment was performed under the authority of Executive Order 9066, which was signed by President Roosevelt in 1942. The Order gave the military the authority to exclude any group of people from any region for military necessity. No provision was made for hearings. In 1990, President George Bush signed an official apology to Japanese Americans for the way they were treated during the war. A memorial to Japanese Americans who were sent to internment camps during the Second World War was opened this year, and is located only a few minutes walk from the Capitol.

The history of compromise of fundamental freedoms during wartime is concerning. It raises the question of what types of freedoms will our generation be willing to sacrifice, and whose freedoms we will be willing to sacrifice during this time of crisis. Chief Justice Rehnquist asserts in his book on liberty during war time that "there is no reason to believe that future wartime presidents will act differently from Lincoln, Wilson, or

Roosevelt." Justice Sandra Day O'Connor recently echoed this view, stating that as a result of the terror attacks "we're likely to experience more restrictions on our personal freedom than has ever been the case in our country."³

The view that fundamental liberties, such as the right to know the charges for which we are being held, the freedom of speech, and the freedom of movement, will necessarily be violated during crisis is not universally shared. In the stone walls surrounding the memorial to Japanese Americans interned during WWII, the words of prominent Americans reject repeating the past. Senator Inouye is quoted saying "The lessons learned must remain as a grave reminder of what we must not allow to happen again to any group." President Reagan's words, "Here we admit a wrong..." are also etched as a reminder to us that exigent actions in times of fear can leave a bitter legacy for generations to come.

Whether history will judge us in a manner any kinder than our forebears will turn on whether we repeat the mistakes of the past or learn from them.

When thinking through our response, both individual and national, it is worth considering

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legally." In addition, evangelizing Muslims is strictly prohibited in Malaysia. These draconian restrictions on freedom of faith are implemented despite a relatively large non-Muslim population in that country and the nation's tradition of pluralism.

Despite the current state of affairs, we know from history that Islamic regimes were not always intolerant. The Moors, whose conquest of Spain begin in 710 and who were not completely expelled from Spain until 1492 when Granada fell to Spanish forces, provide a good example. During long periods of the Moorish occupation, they showed far more tolerance for religious diversity than their Christian neighbors. With this tolerance came advancement. There is virtual unanimity that the Moorish culture was the most advanced in Europe during the Middle Ages. The Muslim world of the present could learn much from this most successful period of advanced Islamic civilization built on tolerance that far exceeded the norms of the time.

We may well be at a hinge-point in world history. The terror attacks were in part prompted by an intolerant extremist faith. The horrifying results of this bigotry are now plain to be seen. As

long as Islamic states from the Morocco to the Maldives, from Algeria to Afghanistan, continue to practice state-sponsored religious repression, disrespect for other faiths and cultures will be the norm in the Islamic world. And as long as this norm is maintained, the extremism born of intolerance is likely to continue to thrive.

We began by asking a simple question. If Islamic nations do not respect religious freedom, should America respect the freedom of American Muslims? The answer has to be a resounding Yes. America may not be a perfect society, but it is most certainly proven to be a nation that respects a broad array of faiths. This is a powerful example to the rest of the world, including Islamic states, that religious freedom not only promotes human happiness, but also stability and prosperity. Now, with the bitter after-taste of religious intolerance fresh in our mouths, is the time to redouble our efforts to knock down the walls of state sponsored bigotry and religious oppression. □

¹ US Department of State, Annual Report on International Religious Freedom 2000, p. 204.

² Id.

Continued from page 19

the environment in which our freedoms were originally encased in law. The Declaration of Independence, the Constitution, and the Bill of Rights were all adopted during times of intense national insecurity. At no time in the years since, with the possible exception of the civil war, has the nation been as weak, its existence as severely threatened, or the security so tenuous. Yet in this environment of crisis, the founding fathers boldly proclaimed protection of individual freedoms.

Current Process

With a taste of history in our mouths, let us turn to events as they are unfolding. In some ways, societal and governmental response to the attacks has been encouraging. Proposed anti-terrorism legislation has been relatively moderate in the circumstances, and is being further moderated through the legislative process at the time this article is being written. In addition, on the whole, society has responded responsibly. There have, however, been some disturbing exceptions.

A few days after the attacks, my wife gave her students at the University where she lectures the opportunity to share their thoughts and feelings. Student after student expressed their shock, their pain, and their anger. Finally, a quiet student asked to speak to the class.

She was a slightly built woman of Indian ethnicity. Her words sent chills down the spines of the class members. She was, she explained, a member of the Sikh community. Since the attacks, Sikh children had become the objects of ridicule at school, as classmates equated Sikh turbans with the headgear worn by Osama bin Laden and the Taliban. Worse, Sikhs across the country had been attacked and one had even been killed in a "reprisal" attack. She began to cry as she spoke. "This is the first time I have been afraid to come to class," she said. "We are just terrified."

Within one day, American Sikhs, American Muslims, and Americans of Middle Eastern origin went from being respected members of their communities to being considered the enemy by some Americans. Reports multiplied of Muslims being treated in the most humiliating manner, and of verbal and physical attacks on these groups. In one case, passengers demanded a Muslim family be ejected from the plane before it took off. To the amazement of some passengers, the airline complied and the family was unceremoniously evicted. Similar harassment and attacks were reported as far away as Brisbane, Australia,

where a mosque was destroyed.


In all of this, it should be noted that the President has acted with honor. President Bush has roundly condemned vigilante acts by private individuals. And this condemnation has been echoed by many of the most prominent citizens in our society. The President and his staff should be highly commended for not only resisting calls for group recrimination, but for working actively against such suggestions by words of praise for the Islamic traditions, his visit to a mosque and his meeting with members of the targeted groups to urge respect for all religious faiths.

Despite this, calls for group punishment continue. A *Time/CNN* poll taken on September 27 revealed that 31 per cent of Americans approve of the U.S. Government holding U.S. Citizens of Arab decent in camps until it can be determined whether they are terrorists. The same poll revealed that half of the respondents approved of requiring U.S. citizens of Arab decent to carry special identification cards. If history is any indication, we can expect these calls to grow.

Calls for group punishment strike at the heart of our freedoms. A fundamental tenet of freedom of religion, for example, is that people cannot be punished because of their beliefs. Whether those targeted are Muslims, Jews, Christians or any other faith group, the punishment on the basis of faith is wrong. Our dedication to this principle is tested at this time. If we are to pass the test, we must stand strongly for rights of Muslims.

Freedom's Echo

As the events of November 11 reverberate through our society, it is important that we all keep in mind what it is that we hold dear. At the heart of the American experiment is a dedication to fundamental freedoms enunciated in the Bill of Rights. The test of our dedication to this freedom is our willingness to uphold them, even for unpopular faiths during difficult times. Indeed, it is in difficult times that protections are most sorely needed.

As defenders of freedom, we must remain alert. For if history teaches us anything, times of crisis are often dangerous times for freedom. 

¹ Stuart Taylor speaking at the Cato Institute, October 2, 2001

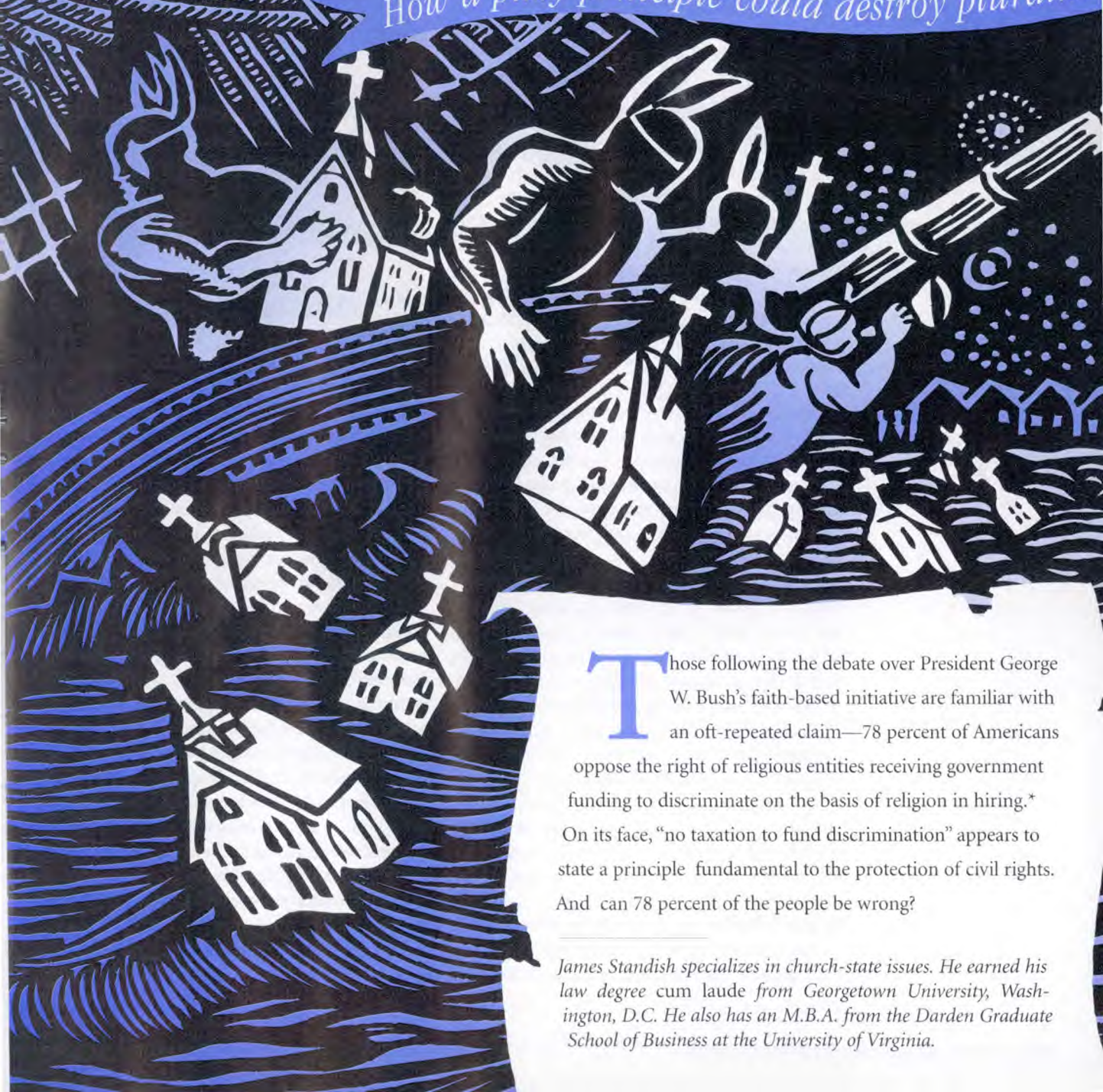
² US. Constitution, Article I, Section 9, Clause 2.

³ Justice Sandra Day O'Connor in response to the terrorist attacks, quoted by Linda Greenhouse in "O'Connor Foresees Limits on Freedom," *The New York Times*, Sept 29, 2001.

By
JAMES
STANDISH

No Taxation to fund Discrimination

How a pithy principle could destroy pluralism



Those following the debate over President George W. Bush's faith-based initiative are familiar with an oft-repeated claim—78 percent of Americans oppose the right of religious entities receiving government funding to discriminate on the basis of religion in hiring.* On its face, “no taxation to fund discrimination” appears to state a principle fundamental to the protection of civil rights. And can 78 percent of the people be wrong?

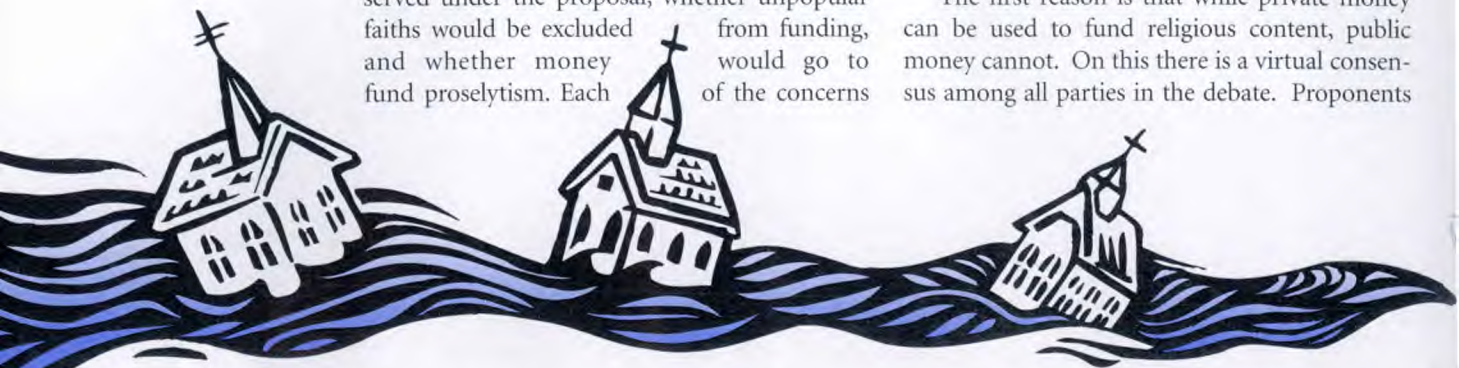
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Well, yes, they can. The “no taxation to fund discrimination” principle is overly simplistic and when applied in a principled manner strikes at the heart of religious pluralism in America.

When President Bush proposed the faith-based initiative, there were numerous objections to the plan. Questions included whether the initiative violated the Constitution, whether it would result in government control of churches, whether recipients of services would be well served under the proposal, whether unpopular faiths would be excluded from funding, and whether money would go to fund proselytism. Each of the concerns

of funding should lose their right to hire only those who concur with the faith’s religious tenets. These voices concede that it is appropriate for religious institutions to discriminate on the basis of religion in hiring when they fund positions exclusively with private funds. They claim, however, that identical forms of discrimination are improper when public money is involved. Advocates for this view provide two principled reasons to justify this distinction.

The first reason is that while private money can be used to fund religious content, public money cannot. On this there is a virtual consensus among all parties in the debate. Proponents



concept, if adopted in a principled manner, produces outcomes that support religious pluralism, a part of which

expressed was serious, and alone was enough to give a prudent observer significant questions regarding the plan. Despite the seriousness of each of these issues, as the debate has continued, the objection that appears to have eclipsed all others is the issue of whether churches that receive funding under the plan will be able to retain their right to hire only those who share their religious values.

The Community Solutions Act (HR 7), which contains provisions implementing the administration’s faith-based initiative and which was passed by the House in July, explicitly states that religious entities receiving funds under the initiative will retain their exemption under the federal civil rights laws. The issue is far from dead, however, as discrimination is expected to again be at the forefront of the debate when the faith-based initiative is discussed in the Senate, and there remains debate over the applicability of state and local discrimination laws on recipients of the funding.

Discriminate on Your Own Dime

In the current debate over the faith-based initiative, many voices have demanded that recipi-

ents of the “no taxation to fund discrimination” theme go one step further, however. They note that the only purpose of hiring people of a given religious persuasion is to advance religious principles. Thus the desire to maintain the ability to hire only coreligionists when hiring workers in an activity that is partially or fully publicly funded is *prima facie* evidence that religious institutions want to use government funding to engage in proselytization and other religious activity.

The obvious problem with this argument is the assumption that the exclusive rationale for maintaining the religious exemption is to perform religious work. But there are a variety of reasons a church may want to maintain its right to hire coreligionists. For example, churches may need their workers to split their time between church functions funded by private money and programs funded by the government. If religious entities are forced to employ a completely different set of hiring criteria for the hours of services funded by the government than the criteria used to fund the hours of service funded by private giving, the church will either have to abandon its hiring criteria across the board, or keep two separate groups of employees hired

under different criteria and working under two sets of expectations. Operationally this may present significant difficulties.

Another example of a legitimate goal for maintaining religious-based hiring criteria is the desire to project the values of the religious institution in all that it does. While soup servers or drug counselors are not permitted to proselytize while providing government-funded services, they are by no means required to actively violate the core values of a religious institution in which the services are provided. There are many ways in which such violations can occur. For example, the use of coarse language by workers may

The “no taxation to fund discrimination” is devastating to a vibrant religious institutions.

undermine the principles of the entity in which the services are provided. The best way of avoiding both intentional and unintentional violations of a church’s principles may be to hire people who have internalized those principles.


The second argument often used to support the “no taxation to fund discrimination” argument is that people should not be taxed to fund jobs that they are ineligible to perform on the basis of their religion or lifestyle. This is indeed a serious objection. Certainly if a large percentage of government contracts were to go to a particular denomination, or if all contracts were to go to religious rather than secular service providers, a significant problem of opportunity for individuals might occur. However, in a nation with such a rich pluralistic society, such a result appears exceedingly unlikely without impermissibly favoring one faith over another, or the religious over the secular.

In addition, it is clearly permissible for the state to choose not to utilize religious entities to provide social services, and as previously discussed there are many reasons the state may choose not to. But when religious institutions are invited to participate in the provision of ser-

vices, this participation must not be predicated on the abandonment of the religious character of the institutions. Such governmental enticement for religious compromise is unseemly.


It is important to keep in mind that religious institutions are not religious merely because they have the name of a faith printed on their signs and stationery. They are religious because the living, breathing people working within them share a common religious vision. Therefore, to require religious institutions to hire those who disagree with their religious vision is to compromise and ultimately destroy the religious nature of the institutions.

The “no taxation to fund discrimination” concept, if adopted in a principled manner, produces outcomes that are devastating to a vibrant religious pluralism, a part of which is vibrant religious institutions. As government’s role in society has expanded, it has become increasingly difficult for religious institutions to remain completely separate from government programs. In fact, in some instances the government has created programs that fully occupy a field in which religious institutions operate. For example, Medicare almost completely occupies the field of acute health-care insurance for the elderly. In these circumstances, religious institutions have the choice either to accept government payments or to close. In this situation, if the government forbids recipients of such funding to maintain their religious character through hiring, it eliminates whole classes of religious entities. Such a result would be the deathblow to a truly pluralistic society. Thus “no taxation to fund discrimination” when applied in a principled manner produces results that are on their face unacceptable and strike at the heart of a free and just society.


Yes, there are many solid reasons to oppose the faith-based initiative. But the “no taxation to fund discrimination” argument is not one of them. While the premise of the argument is faulted, it does expose a serious danger posed by the faith-based initiative; there are many who are willing to use strings tied to government funding to advance their social/political agendas at the expense of the integrity of religious institutions. Somewhat ironically, this may be the best argument against the faith-based initiative. 

** The 78 percent figure was generated from a survey performed by the Pew Research Center. The Pew Forum on Religion & Public Life, “American Views on Religion,” Politics & Public Life, April 2001, p. 1.*





Suppression of public religious expression in Canada intensified with a June 19, 2001, decision by the Province of Saskatchewan's Human Rights Commission that public reference to the Bible can be considered "hate speech." The Saskatchewan HRC has ordered both the Saskatoon *StarPhoenix* newspaper and Hugh Owens, of the nearby city of Regina, to pay \$1,500 to three homosexual activists for publishing an advertisement with references to Bible texts condemning homosexuality. The ruling also prohibits Christian activist Owens from "further publishing or displaying the bumper stickers" upon which his newspaper ad was based.




Owens placed the advertisement in the *StarPhoenix* of June 30, 1997, on the occasion of the city of Saskatoon's Gay Pride Week. It listed in column 4 Bible references (Romans 1:21-32, Leviticus 18:22, Leviticus 20:13, and 1 Corinthians 6:1-10), followed by a mathematical equals sign, followed by the universal prohibition sign (circle with slash) containing two stickmen holding hands. Three homosexual activists complained to the Saskatchewan Human Rights Commission. The provincial and federal human rights codes now include "sexual orientation" as a protected category. In the subsequent human rights hearing, Roman Catholic, Lutheran, and Jewish representatives testified about the biblical perspective on homosexuality.

However, a witness for the complainants, Rev. Brent Hawkes of Toronto's Metropolitan Community church (who recently tried to circumvent Canadian law by "marrying" two homosexual couples) testified that the Bible does not in fact condemn homosexuality. Hawkes also called faiths such as Catholicism and Judaism "extreme," and branded fundamentalist Christians as "satanic."

In its ruling, the HRC conceded that Owens,

an evangelical Christian, was "publicly expressing his honestly held religious belief." However, it ruled, the Human Rights Code can issue a "reasonable restriction" on his free expression, since the advertisement exposed the complainants "to hatred, ridicule, and their dignity was affronted on the basis of their sexual orientation."

Gay litigant Gens Hellquist says he's "certainly pleased" with the tribunal's decision. "There are standards for what's fair comment regarding Jews and racial minorities, and now the commission has set standards on fair comment regarding homosexuals," Hellquist said. The appeal to religious freedom is "a common ploy with the right wing," but religious freedom is "not a real issue here," he says, since "not everyone interprets those verses the same way."



"People are free to interpret the Bible any way they want in their own lives, but (they cannot use) that interpretation to create a climate of hate and intolerance. Owens' agenda is really scary. He didn't say it in so many words, but he really believes that judges (following Leviticus) should put gays to death," continued Hellquist.

For his part, Owens, 50, single and a career corrections officer, denies that, as a Christian, he wants homosexuals put to death. But he does believe that "eternal salvation is at stake," both for those engaging in homosexual acts and for himself, if he fails to inform them about "what God says about their behavior." He dismisses the possibility of "alternative interpretations" of the Bible as "simply the old secular-humanist standby" argument.

Owens says he placed the advertisement in the newspaper as "a Christian response" to Gay Pride Week. "I put the biblical references, but

Joe Woodard is the religion writer for the Calgary Herald in Calgary, Alberta, Canada.

Belief and Conduct in

CANADA



By
JOE WOODARD

PRIMA

not the actual verses, so the ad would become interactive. I figured somebody'd have to look them up in the Bible first, or if they didn't have a Bible, they'd have to find one."

Owens believes his case is clearly a collision between religious freedom and sexual orientation rights. The HRC judged that "while the stick-figures are more neutral," it is precisely the "combination of the prohibition symbol with the Bible passages that exposes homosexuals to hatred."

Owens is planning to appeal the decision, and thinks his case may end up before the Supreme Court of Canada.

Paul Donlevy, vicar general for the Roman Catholic Diocese of Saskatoon, was called to testify before the HRC on behalf of Catholicism. He testified that the church understands sexual orientation may not be chosen, but nevertheless "every person is called to holiness . . . and homosexuals are called to the same sexual morality as any other unmarried people."

"All I said was a variation on hate the sin but love the sinner," Donlevy recounts. But for his pains, he was berated by both the gay litigants and later by a conservative lobby group, who called him "a lackey of the HRC."

"I certainly hope this decision is appealed," Donlevy says. "It's a great concern that simply referring to biblical scriptures can be called hate speech. Soon we'll be so politically correct, we won't be able to preach."

Conservative gay activist John McKellar, president of Toronto-based Homosexuals Opposed to Pride Extremism (HOPE), calls the Saskatchewan HRC ruling a "five-star blood-bath" for both Canadian families and, ultimately, Canadian homosexuals themselves. McKellar thinks gay militants are now "pots calling kettles black" in suppressing supposed religious intolerance, and their own intolerance will eventually rebound on them.

"The major media are all nonstop advertisements for the gay lifestyle, so how far are they prepared to go in denying free speech to Christians, Muslims, and Jews?" McKellar asked. "No major world religion has ever accepted homosexual behavior. And if [gay] activists had any sense of history, they'd realize their own lifestyle is a symptom of an overurbanized, relativized culture heading into decadence."

The Owens case is only one instance of a continuing trend in Canada of human rights tribunals imposing the public affirmation of homosexuality upon reluctant Christians. During the past five years the mayors and city councils of more than a half dozen cities have been ordered to declare "Gay Pride" days, often contrary to their expressed religious commitments.

And meanwhile, in Ontario, Toronto printer Scott Brockie is preparing to go to trial at the superior court level, after losing two hearings before human rights tribunals.

Brockie's crime was refusing to print stationery for the local Gay and Lesbian Archives. He had previously done printing jobs for homosexuals, but he judged that printing stationery for an advocacy group would constitute a personal endorsement of their lifestyle, contrary to his Christian faith. If he loses his appeals and faces a judicial order to serve gay activism, he says, he will surrender his business rather than comply.

Unfortunately neither the Owens nor the Brockie cases have been settled by what Christian and pro-family activists are taking to be at least a partial victory in the Canadian Supreme Court. Still, Canadian Christian educators and social activists were cheered, May 17, when the Supreme Court of Canada ruled 8-1 in favor of Trinity Western University of Langley, British Columbia, in its battle with the British Columbia College of Teachers (BCCT).

Trinity Western is a full degree-granting university of 2,850 students, affiliated with the Evangelical Free Church of Canada. For five years TWU has been fighting a BCCT ruling barring it from accrediting its education graduates for public school teaching. TWU's Christian code of student conduct forbids "practices that are biblically condemned," such as homosexual activity (or indeed, any premarital sex), drinking or gambling. And this, the College of Teachers argued, must encourage TWU education graduates to be discriminatory or "homophobic" in their public school classrooms.

For more than a decade, however, TWU's four-year Bachelor of Education graduates have taken their fifth-year accreditation practicum at a neighboring public university. And TWU argued successfully that the College of Teachers had no concrete evidence that its existing alumni have ever discriminated against homosexual public school students.

The case was the first real test of the boundary between religious freedom and "sexual orien-

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tation” rights, since sexual orientation was “read into” the Canadian Charter of Rights and Freedoms by the Supreme Court some four years ago. So as the issue moved from trial court to the Court of Appeals and Supreme Court, it attracted intervenors such as the Canadian Conference of Catholic Bishops, the Evangelical Fellowship of Canada, the Seventh-day Adventists, and even the Canadian Civil Liberties Association on the side of TWU. And the Ontario Secondary School Teachers’ Federation and EGALE (Equality for Gays and Lesbians Everywhere) waded in on the side of the BCCT.

In the end the Supreme Court ruled that students from a sectarian education could qualify for public employment. The court upheld the right of the BCCT to question whether any university’s practices did indeed uphold the social objectives of public education. But it also ruled that the question could be answered only by reference to concrete evidence of bigotry or discrimination. “Neither freedom of religion nor the guarantee against discrimination based on sexual orientation is absolute,” the court’s majority ruled.

“The proper place to draw the line is generally between belief and conduct. The freedom to hold beliefs is generally broader than the freedom to act on them. Absent concrete evidence that the training teachers at TWU fosters discrimination in the public schools of British Columbia, the freedom of certain individuals to adhere to religious beliefs while at TWU should be respected. Acting on those beliefs, however, is a different matter. If a teacher in the public school system engages in discriminatory conduct, that teacher can be subject to disciplinary proceedings before the BCCT.”

TWU’s executive vice president Guy Saffold, in charge of the school’s legal campaign, said the court’s decision was “critical for democracy,” because it affirmed that “in our multicultural and multifaith society, people cannot be arbitrarily penalized or barred from participating in public life simply because they hold religious views The BCCT was only able to cite vague suspicions and stereotypes to justify its position. Such stereotypes are anathema to our laws and themselves amount to discrimination.”

There is some disagreement, however, on the question of whether the Supreme Court decision really entails the free public expression of religious beliefs. And the outcome of cases such as Owens’ and Brockie’s depends on whether the court itself will interpret the TWU decision as doing so.


Giving the optimistic interpretation, Iain

Benson, director of the Ottawa-based Center for Cultural Renewal, said that the TWU ruling was far more significant than the homosexual activists let on.

“Big sigh of relief,” Benson said. “With an 8-1 majority this is a very significant decision and a very important victory for freedom of religion in Canada.”

Canada’s homosexual activists have been engaged in a legal campaign, funded by the federal government’s Court Challenges program, to “deny the right to affirm publicly . . . the traditional family,” Benson said. And in a series of legal challenges to parental authority over school curriculum, the freedom of commercial transactions, inheritance rights, and the legal definition of marriage, they have made a great deal of progress. But now, Benson suggested, the court has affirmed that religious freedom includes not merely the right to believe privately, but also—in the words of its 1985 Big-M Drug Mart decision—the right to “manifest, disseminate, and teach” those beliefs.

However, the conservative group REAL Women of Canada sounded a much more pessimistic note. REAL Women national vice president and counsel Gwen Landolt found the Supreme Court’s distinction between “broader freedom of belief” and “narrower freedom of action” a troubling one. And it saw a veiled threat in the court’s statement that if TWU teachers later discriminate against gay students, they “can be subject to disciplinary proceedings before the BCCT.”

So even though the court affirmed the right of a religious institution to its “private” religious beliefs, Landolt sees no reason to assume that it will extend that right to the public expression of those beliefs. And in Owens’ case (publishing an ad critical of homosexuality) or in Brockie’s (refusing a commercial contract implicitly affirming homosexuality), it is conduct that is at stake. The court would have to allow not merely freedom of religious belief critical of homosexuality, but freedom of public conduct equally critical. And with the exception of its 16-year-old Big-M Drug Mart decision, the court has given no indication that it intends to go that far in disappointing its favorite “oppressed minority,” those with alternative “sexual orientations,” and permit genuine public pluralism, secular, and religious. 

*The freedom
to hold beliefs
is generally broader
than the
FREEDOM
to act on them.*

Continued from page 15

continued to receive letters of warning and verbal threats of termination.

"Even after we lost the administrative hearing we continued to look for ways for her to get accommodated," says Al-Haddad. "Then in 1999, two years after we lost the administrative hearing, the supervisor who had arbitrarily changed her schedule was removed from the postal facility. When that happened we saw an overall change in attitude, though not an immediate change in schedule."

A new supervisor arrived, and things began to look up. Gardner-Ihrig was told that her request not to be scheduled during the Sabbath would be accommodated if she would work only an occasional Sabbath.

"They kept insisting that I work on Sabbath," Gardner-Ihrig says. "They said, 'Just once a month and we'll work something out the other Sabbaths.' I said, 'I can't do it even once a month. That's compromise. You don't compromise what you believe. You either do it or you don't.'"

Meanwhile, the religious liberty staff at the Southern Union Conference discovered something helpful. "We found a federal office management policy that reaffirmed her ability to get Sabbaths off," says Al-Haddad. "We presented that to the Post Office, to her new supervisor, again asking for Sabbath accommodation. It was as easy to give her Sabbaths off as it was to

take Sabbath away. It was up to the supervisor." In September 1999 Gardner-Ihrig was called into her supervisor's office and given a letter. It promised that she would have no Friday night or Saturday work, and that all the negative warning memos and attendance reports would be removed from her permanent record.

Since then things have been going along fine, though Gardner-Ihrig says she doesn't feel they will ever be fully resolved. "With continued automation I will probably have another bout if I am there long enough," she says. But at least now she knows what to do. "I'll do exactly the same things I've been doing."

Religious liberty is a slippery animal. Title VII of the Civil Rights Act of 1964 states, "The term 'religion' includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business." Exactly what that means, however, is open to interpretation. But it's worth standing up and fighting for.

"You can't compromise," says Gardner-Ihrig softly. "You must hold fast. To do that you must have a good relationship with God, because He's going to be the only one there for you at times." □



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"Negative Entities"

I noticed you didn't have a letters section in the January/February 2001 issue.

Anyway, I would like your opinion on this: Is it valid to ban any cult that openly advocated actual worship (not just as metaphor) of negative entities ("demons") and sacrifices to them?

DAVID BROCK,
Portland, Oregon

Certainly, speaking from a Christian perspective, I would find such a cult abhorrent! However, in a pluralistic society, committed to religious freedom for all, we cannot act against a belief just because it offends us. If any group advocates practices that are clearly dangerous—such as child sacrifice—then we have laws to prohibit these acts. But a "ban" against particular religion does threaten the religious liberty of all—and run directly against the Constitution.

Letters—sorry, they get squeezed out now and then. Please keep sending them, and we'll print your comments. Editor.

No Intrusion

In an article on charitable choice (January/February, 2001) you state, and I quote:

"In the larger scheme of things, charitable choice is just another skirmish in the longstanding battle over the proper relationship between church and state. The best outcome of this skirmish would be a stern reminder of the continuing importance of the separation of church and state.

"In the social services area, as in other areas, church/state dis-

putes arise, the separation of church and state continues to serve three functions essential to the preservation of religious liberty: it ensures that the government will not be controlled by religious groups; it ensures that churches will not be controlled by the government; and it ensures that individuals will remain free to decide for themselves the direction of their spiritual quests."

I could not disagree with you more strongly. The constitutional provision for separation of church and state was to keep the church out of the administration of the state, not the other way around, as you are trying to propose. History is replete with the excess of the church when it comes to ruling as if it were the state. I am against all intrusion of the state into any religion, and more important, I am diametrically opposed to any—I repeat, any—intrusion by any religion into the government.

ROBERT F. HANNA, e-mail

Free to Disagree

I appreciate receiving the Liberty periodical.

I am suggesting that you procure a copy of the book *Reclaiming the Lost Legacy*, by Dr. James Kennedy, Ph.D. a scholarly refutation of your contention of the separation of church and state. DONALD E. MCCLINTOCK, Cherry, Illinois

Dr. Kennedy is one of the foremost proponents of a revisionist view of history which attempts to redefine the past in an overtly Christian nation mold. Editor.

Liberty Appreciated in New Zealand

I love Liberty magazine, despite its virtually exclusive American flavor. We, in other parts of this shrinking global village, do understand that America is where the real action is.

I'm not surprised at the numbers of people embracing Seventh-

Day Adventism round the globe, considering the history of your church's teaching. While most churches have changed many of their beliefs, over the past century and a half, Seventh-day Adventist publications, including Liberty, are still advancing the same vital principles.

JOHN WALLACE,
Kaikohe, New Zealand

The Liberty editors reserve the right to edit, abbreviate, or excerpt any letter to the editor as needed.

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The God-given right of religious liberty is best exercised when church and state are separate.

Government is God's agency to protect individual rights and to conduct civil affairs; in exercising these responsibilities, officials are entitled to respect and cooperation.

Religious liberty entails freedom of conscience: to worship or not to worship; to profess, practice, and promulgate religious beliefs, or to change them. In exercising these rights, however, one must respect the equivalent rights of all others.

Attempts to unite church and state are opposed to the interests of each, subversive of human rights, and potentially persecuting in character; to oppose union, lawfully and honorably, is not only the citizen's duty but the essence of the Golden Rule—to treat others as one wishes to be treated.

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Keep *the* Faith, LIBERTY!

September 11, 2001: a great horror is visited upon the United States and the entire civilized world. We watched it blossom into wicked flame high in a cloudless sky and then collapse in a moaning menace to life as we knew it. It replays itself on television screens and in millions of minds. Brave flags fly in the searing winds of change. But where are we bound?

I returned home that evening, numbed by the enormity of what I had witnessed, but anxious that Christopher, my three-and-a-half-years-old son should not have to look into such a dark pit. Christopher does not watch television at all, other than an occasional carefully screened cartoon at bathtime. I knew that my wife had turned the set on briefly as the tragedy unfolded, but she said he was playing by himself and seemed not to be watching. When I came home the first thing he said was "Daddy, there's been big

bombs in buildings!" He knew. I made a mild reply and we went on to the usual play before bedtime.

Sunday, September 16, we attended the annual Sharpsburg festival, held at the little town in the middle of the Antietam battlefield park—site of the bloodiest battle of the Civil War. On the way there, as we paused at a traffic light, Christopher suddenly said "I want to talk to that man." From his booster seat perch he buttoned the window down and leaned out toward the pickup parked next to us. "Excuse me, sir," he trilled in childish tones. The man looked over at him.

"There's been bombs, fires in buildings . . ." said Christopher with his usual animation. The man nodded. There was a pause. Then Christopher said "Are you sad?" It was more of a statement than a question. "Yes, I am very sad," said the man.

On our cover this issue is a sad-eyed lady Liberty. Yes, we have had our shocks and sorrows before: the anguish of civil war, a Great Depression, presidents assassinated, citizens and soldiers

held hostage, murdered and defiled by howling mobs. But the scale of this latest act, the symbolism of the targets and the realization that we have been violated in our own home has been devastating. And while we weep for the lost and their families, so much of the grief is for ourselves. The priest poet Gerald Manley Hopkins wrote in his 1918 poem to a young child tearful at the loss of foliage in the fall, "It is Margaret you mourn for."

And in the aftermath so much rage and blame setting.

One Christian leader appeared on national television and said "God is angry with America. We must put religion back into our government." Let us not fall for that version of God. It is too reminiscent of the mind-set which produced the terrorists and the regimes which support them. Jesus himself, when asked to comment on those who had recently died in the fall of a tower in Siloam, asked "Do you think that they were worse offenders



than all the others who dwelt in Jerusalem? I tell you No," he assured them (Luke 13:5), while reminding them that all men should repent of their selfish ways and follow him.

In a fine opinion piece written days after the terrorist acts, Chuck Colson quoted from this passage; calling it a "hard saying" of Jesus. But it is not problematical at all in context. Jesus was discussing the coming of his Kingdom and the need to prepare. He dismissed the idea of such incidents as signs of God's personal malice. But he did enjoin his listeners to be sensitive to the times. And he did promise security amid crisis. Earlier, during the same teaching session, he said "Fear not, little flock, for it is your father's good pleasure to give you the kingdom."

Since I travel hours each day to get to work, I listen a lot to C-

SPAN and other programs that allow call-in opinions. In the aftermath of the attacks, caller after caller said they would willingly give away freedoms to gain security. Curiously, it was an Arab-American who has lived most of his life here who called in and tried to call a halt to such talk. "It is an oxymoron to give up freedom to protect freedom," he reminded. But the howls for control and intrusion rise with each passing day.

The founding fathers could scarcely have imagined the technological colossus targeted by the terrorists. But we sell short the experience of men who lived to see the upheavals of the French Revolution and their grasp on the essential nature of freedom if we think Liberty can be bargained away in a devil's pact to "protect" it.

I think of Thomas Jefferson's powerful reminder given during

his First Inaugural Address, March 4, 1801. He pointed to "Freedom of religion, freedom of the press, and freedom of persons under the protection of habeas corpus, and trial by juries. These principles," he maintained, "form the bright constellation which has gone before us, and guided our steps through an age of revolution and reformation . . . and should we wander from them in moments of error or alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety."

Yes, this surely qualifies as a "moment of alarm."

The Sharpsburg festival, next to the silent sentinels of the Antietam conflict and the civil war trauma, was a heartwarming few hours amid the prevailing sorrow. It was a step back into the basic goodness and uncomplicated love of freedom that characterizes America. Street stalls sold funnel cakes and popcorn, freshly ground wheat and various home crafts. Many people had dressed up in the homespun "finery" of another era. Folk bands played aching songs of immigrants and their search for freedom.

It was a scene festooned with

flags, children and bantering small talk. But no moment was more revealing than when "Abraham Lincoln" stood up and presented the Gettysburg Address—with a few modifications to apply it to the trial of the moment. My spine tingled to hear again of "a new nation, conceived in Liberty." And even without adjustments, when Lincoln said "Now we are . . . testing whether that nation or any nation so conceived and so dedicated, can long endure," I heard our cry for help. I can only pray that "this nation, under God, shall have a new birth of freedom—and that government of the people, by the people, for the people, shall not perish from the earth."

THE Danbury E X C H A N G E

The Danbury Baptist Association, concerned about religious liberty in the new nation, wrote to President Thomas Jefferson on October 7, 1801. Baptists in Danbury, Connecticut, were persecuted because they were not part of the Congregational establishment in that state.

Our sentiments are uniformly on the side of religious liberty. That religion is at all times and places a matter between God and individuals. That no man ought to suffer in name, person, or effects on account of his religious opinions. That the legitimate power of civil government extends no further than to punish the man who works ill to his neighbor. But Sir our constitution of government is not specific. Our ancient charter together with the laws made coincident therewith, were adopted on the basis of our government, at the time of our revolution; and such had been our laws and usages, and such still are; that religion is considered as the first object of legislation; and therefore what religious privileges we enjoy (as a minor part of the state) we enjoy as favors granted, and not as inalienable rights: and these favors we receive at the expense of such degrading acknowledgments, as are inconsistent with the rights of freemen. It is not to be wondered at therefore; if those, who seek after power and gain under the pretense of government and religion should reproach their fellow men—should reproach their chief magistrate, as an enemy of religion law and good order because he will not, dare not assume the prerogatives of Jehovah and make laws to govern the kingdom of Christ.”

On January 1, 1802, in response to the letter from the Danbury Baptist Association, Thomas Jefferson wrote:

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 legislative 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. Adhering to this expression of the supreme will of the nation in behalf of the rights of conscience, I shall see with sincere satisfaction the progress of those sentiments which tend to restore to man all his natural rights, convinced he has no natural right in opposition to his social duties.”

091-J

