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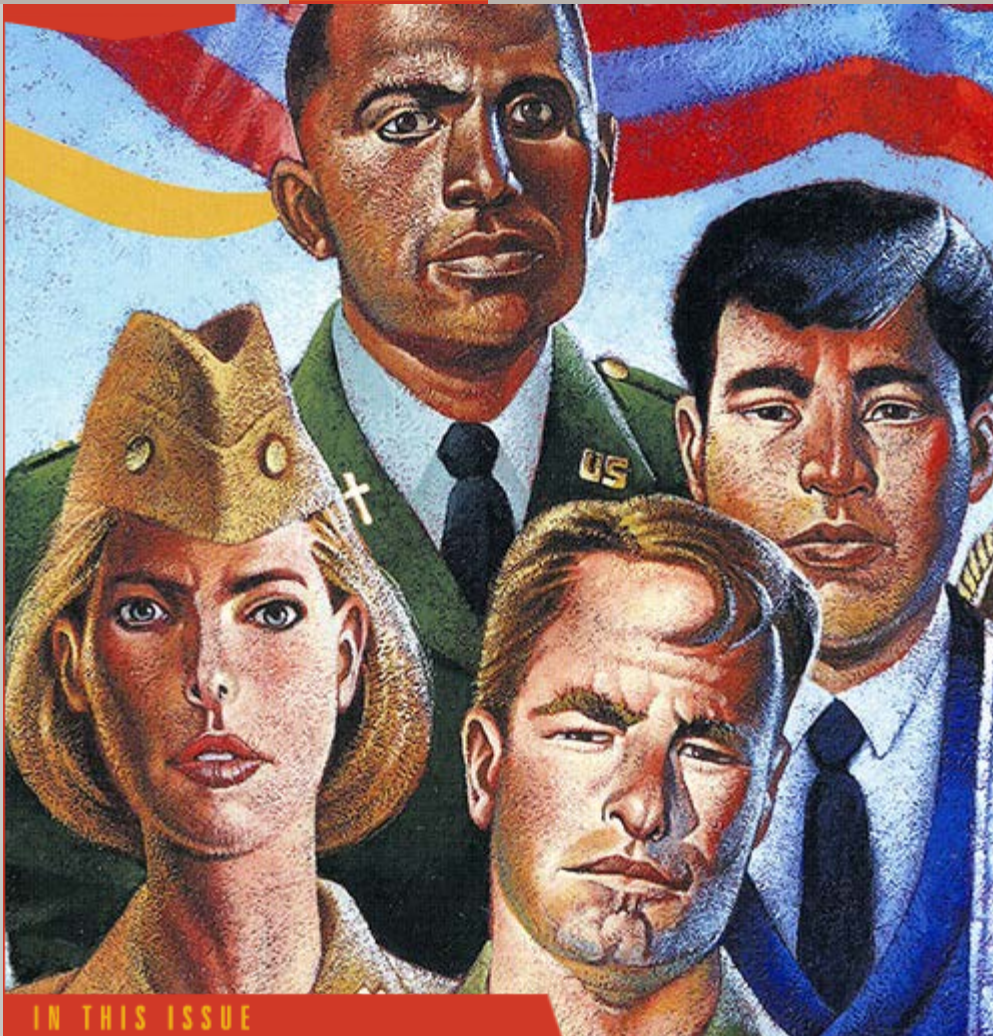
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MARCH / APRIL 2002

Lead Us Not Into Temptation

BY: LEE BOOTHBY

The lure of government financial aid can be very tempting to cash-strapped sectarian educational institutions. The sad fact is that many church-affiliated colleges and universities have fallen victim to a watering or even elimination of the sectarian aspect of their programs to ensure con-state financial support.

A Catholic leader wrote the following about the disastrous effects of taking Uncle Sam's money: "Recently I was invited to speak to a group of students majoring in theology at one of the Catholic universities in the Midwest. I was taken to a nondescript, broken-down building which was . . . totally separated from the rest of the campus. That is where religion is because all of the other buildings are in one way or another funded with federal money and there can be no religion in there. The university authorities admitted that this was not a happy situation, but it was the price to be paid for the substantial amount of federal funds that had been poured into university buildings.

About 10 years ago Jerry Falwell's Liberty University sought millions of dollars in state funding to finance construction of new facilities. The Virginia Supreme Court found the arrangement violated the religion clauses of both the United States and Virginia constitutions.

Liberty University's published policies require its faculty and students to attend church and chapel six times each week. Its faculty and students are required to subscribe to Liberty's religious doctrine, and its faculty's academic freedom is circumscribed by Liberty's doctrinal statement. Still Liberty University attempted to downplay its religiosity. They had witnesses testify that these policies were not enforced.

In its brief to the Virginia Supreme Court, Liberty's lawyers pointed to recently revised policies and publications, arguing that Liberty now "is not an institution in which religion is so pervasive that a substantial portion of its functions is subsumed in its religious mission." The lawyers for Liberty told the court that "the university. . . is not an integral part of the religious mission of a sponsoring church, does not have as a substantial purpose the inculcation of religious values, and does not impose religious restrictions on what or how the faculty may teach." But this statement brought a storm of protest from the evangelical community. Perhaps this contributed to Jerry Falwell's having second thoughts about President Bush's faith-based initiative.

David Lipscomb University, a Churches of Christ institution in Nashville, Tennessee, recently sought tax-exempt revenue bonds to finance a major redevelopment project on its campus.

Because bonds are exempt from both federal and state taxes, they carry a lower interest rate than conventional financing, and Lipscomb realized the benefit through lower interest rates on its loan. In order for the bond issue to enjoy tax-exempt status, the Industrial Development Board had to find that the bond issue served a legitimate public purpose or created a substantial public benefit.

The trial court held the bond issue violated the establishment clause of the First Amendment, finding that the tax-exempt revenue bond issue was the financing tool through which the government was able to collect funds to lend the \$15 million to the university.

The district court concluded that, although the Supreme Court has allowed government aid to be directed to church-affiliated institutions where such funds are used only to advance secular concerns, in the case of Lipscomb there were insufficient limitations on the use of the proceeds to prevent their use for sectarian purposes.

Lipscomb argued before the court that whether or not an institution is "pervasively sectarian" is no longer constitutionally relevant. The university reserved the right to discriminate in the hiring of staff.

There is a significant distinction between pervasively sectarian organizations and those organizations that are merely religiously affiliated.² State-supported secular private colleges (even those that are religiously affiliated) are not allowed to hire and fire on the basis of religion. While religiously affiliated colleges may use religious criteria in the hiring of chaplains and religion teachers, the burden is on the college to prove that specific positions are religiously related.³ Such private colleges may be prevented from discriminating against student groups based on religious standards.⁴

The Supreme Court has permitted financial aid to go to a church-affiliated college or university upon determination that it is not pervasively sectarian. The presumption is that, unlike church-operated elementary and secondary schools, church-affiliated higher education institutions are not generally pervasively sectarian. But whether they are pervasively sectarian or not was a key factor as to whether financial aid to such institutions was constitutional. In *Roemer v. Board of Public Works of Maryland*,⁵ the Court accepted the district court's subsidiary findings which led to the Court's holding that the colleges in *Roemer* were not pervasively sectarian.⁶ But to reach this conclusion, the Court looked at several factors. For example, the *Roemer* Court determined:

- a. The colleges, despite their formal affiliation with the Roman Catholic Church, were "characterized by a high degree of institutional autonomy."
- b. Attendance at religious exercises on campus was not required. None of the institutions did anything other than provide opportunities or occasion for religious experience.⁷
- c. Although mandatory religion or theology courses were taught at each of the colleges, they were taught in an "atmosphere of intellectual freedom" and without "religious pressure."⁸
- d. Although some classes were begun with prayer, there was no "actual college policy" of encouraging this practice.⁹
- e. Faculty hiring decisions were not made on a religious basis except for the Theology Department.¹⁰
- f. Student admission and recruiting were not based on religious criteria, even though the great majority of students are Roman Catholic.

Those now pursuing public funds for church-affiliated institutions strive to eliminate the "pervasively sectarian" test as a factor in deciding whether or not an institution may receive tax funds. But they ignore the danger that antidiscrimination laws and impulses will prevent these institutions from serving as an undiluted church ministry.

Religious organizations have been viewed as uniquely different from other organizations, and entitled to special constitutional protection. This special status for pervasively sectarian organizations has insulated them from substantial governmental intrusion into their internal affairs. For example, the courts have held that the Constitution protects the right of pervasively sectarian organizations, such as religious schools, to hire or terminate their teachers free from antidiscrimination laws generally applicable to other employers. As noted constitutional scholar Douglas Laycock stated: "Church labor relations plainly fell within the right of church autonomy. Deciding who will conduct the work of the church and how that work will be conducted is an essential part of the exercise of religion. In the language of the Supreme Court's autonomy cases, labor relations are matters of 'church administration'; undoubtedly, they affect "the

operation of churches."

In *Kedroff v. St. Nicholas Cathedral* (344 U.S. 94 [1952]) the Supreme Court held it unconstitutional for government to be excessively entangled in church administration. In *Serbian Eastern Orthodox Diocese v. Milivojevich* (426 U.S. 696 [1976]) the Supreme Court held that the First and Fourteenth amendments permitted churches to establish their own rules and regulations for internal discipline and governance.

Courts have said that claims of establishment clause violations may arise both when government benefits religious organizations as well as when government potentially burdens religion.¹ For this reason it was logical for the Seventh Circuit in *Catholic Bishop of Chicago v. NLRB* (559 F.2d 1112, 1131 [7th Cir. 1977]) to conclude that an evenhanded approach to the First Amendment would seem to suggest that the religion clauses, serving to prevent financial aid to sectarian schools, should not be any less effective in warding off the inhibiting effect of government controls and demands.

Conversely, in *Lemon v. Kurtzman* Justice Byron White wrote that legislation providing assistance to any sectarian school that restricted entry on religious or racial grounds would, to that extent, be unconstitutional.⁴

In fact, receipt of government support by a church agency has led to defeat of its church autonomy exemption from National Labor Relations Board jurisdiction. In *NLRB v. St. Louis Christian Home*⁵ the NLRB sought enforcement of an order directing the Christian Home to engage in collective bargaining with the union.

Although the Christian Home was operated by the Christian Church, providing emergency residential care for battered, abused, and neglected children, it was denied First Amendment protection from NLRB jurisdiction. One of the factors defeating the church's claim was that "the Home [received] funds primarily from government sources."⁶ The Court suggested that "if the Home were not secular in nature, this collaboration could lead to constitutional problems under *Lemon v. Kurtzman*."⁷

And so the debate continues not only outside, but also within, religious circles: between those who seek government support to help fund activities of faith-based educational institutions and those who fear that the acceptance of those funds will destroy the very purpose for which they were established.

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See *Bowen v. Kendrick*, 487, U.S. 589, pp.616- 617 (1988).

See *Welter v. Seton Hall University*, 608 A.2d 206 (N.J. 1992).

See *Gay Rights Coalition of Georgetown University Law Center v. Georgetown University*, 536 A.2d 1 (D.C. App. 1987).

'Roemer v. Board of Public Works of Maryland, 426 U.S., 736 (1976).

ibid., pp. 757, 758.

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ibid., p. 756.

ibid.

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Douglas Laycock, "Towards a General Theory of the Religion Clauses:

The Case of Church Labor Relations and the Right to Church Autonomy," Columbia Law Review 31 (November 1981): 1373, 1378.

See St. Elizabeth Community Hospital v. National Labor Relations Board, 708 F.2d 1436, 1441, n. 3 (9th Cir. 1983).

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ibid., p. 64.

'ibid., p.64,n.6.

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No Right Is An Island

BY: ALAN REINACH

No Right is an Island

By Alan J. Reinach

Post-September 11 polls show that Americans are all too willing to trade freedom for security. But what freedoms we will trade and what impact this will have on other freedoms remain an open question.

Among those clamoring for greater security, there is only dim recognition that fundamental rights are interrelated. If any right is undermined or abridged, all others are necessarily impacted as well.

This rethinking of basic liberties has clear implications for religious freedom. If the rights of habeas corpus, due process under the Fourteenth Amendment, Fifth Amendment rights against self-incrimination, or Fourth Amendment rights to be free of unreasonable searches and seizures give way to the antiterrorist imperative, the fundamental rights of conscience will not escape.

Let's first take a look at the interrelatedness of various fundamental rights to religious freedom and then examine why we cannot expect any fundamental rights to endure as islands in a sea of eroding liberties.

By its very nature, the relationship between government regulation and religious practice invokes multiple constitutional values. Constitutional provisions relating to speech, equality, and privacy and autonomy intrinsically interconnect with and overlap the constitutional text explicitly protecting religious liberty. Religious liberty cannot be meaningfully understood—or protected—in isolation.

Religion clause issues routinely cross constitutional boundary lines. Religious freedom claims invariably invoke free speech, equal protection, and privacy and autonomy concerns. In the words of one constitutional scholar: "Religion is a multidimensional constitutional interest. In its varying aspects, it implicates personal liberty, group equality, and freedom of speech. In addition to protecting the freedom of religious individuals and the autonomy of religious institutions to follow the dictates of their faith, the Constitution affirms the equal status and worth of religious groups and the faiths that sustain them. Further, it protects the rights of religious and secular individuals to espouse their beliefs on an equal basis with others and to influence personal and public policy in a competitive market place of ideas."

Take free speech, for example. Free exercise and establishment clause concerns and free speech interests have been doctrinally linked in Supreme Court opinions for decades. In 1939 the U.S. Supreme Court considered a case involving Jehovah's Witnesses engaged in door-to-door solicitation. The Witnesses challenged municipal regulations restricting their activities and subjecting them to criminal penalties. The Court's ruling in favor of the Witnesses combined the free speech and religion interests: "The fundamental law declares the interest of the United States that the free exercise of religion be not prohibited and that freedom to communicate information and opinion be not abridged."²

A subsequent case involved the application of a licensing fee for soliciting to individuals going door-to-door to distribute religious literature. In explaining his decision that this tax violated the First Amendment, Justice William O. Douglas described the dual nature of the activity at issue and the constitutional provisions that protected it:

"This kind of evangelism ... is more than preaching; it is more than the distribution of religious literature. It is a combination of both. Its purpose is as evangelical as the revival meeting. This form of religious activity occupies the same high estate under the First Amendment as do worship in the churches and preaching from the pulpits. It has the same claim to protection as the more orthodox and conventional exercises of religion. It also has the same claim as the others to the guarantees of freedom of speech and freedom of the press."³

More recent cases demonstrate the same overlap of speech and religion. In

Widmar v. Vincent a group of religious students were prohibited from using campus facilities at the University of Missouri for meetings involving prayer, the singing of hymns, Bible commentary, and the discussion of religious views and experiences. The Court held that the university violated the students' free speech rights. But surely free exercise interests were also implicated by the university's decision. Indeed, Justice Byron White argued in dissent that the free exercise clause was a more appropriate basis for resolving the case.⁴

Widmar has been followed by a long line of cases applying the free speech clause of the First Amendment to protect religious expression.⁵ In *Good News Club v. Milford Central School*, for example, the Court ruled that a school district's refusal to allow a religious organization to meet on school was a free speech violation. Justice

property after hours David Souter, in dissent, described the religious nature of the Good News Club's activities in considerable detail before concluding that the club's program constituted "an evangelical service of worship calling children to commit themselves in an act of Christian conversion." The majority, while not disputing Souter's description, nevertheless concluded that the case was properly adjudicated under the free speech clause. Justice Clarence Thomas explained that the majority saw "no reason to treat the club's use of religion as something other than a viewpoint merely because of any evangelical message it conveys."⁷

Finally, in *Texas Monthly v. Bullock* the issue was a Texas statute exempting religious periodicals published by religious organizations from sales and use taxes applicable to secular journals. Five justices concluded that the statute violated the establishment clause, although for different reasons. A sixth justice, Justice White, argued that since the statute discriminated on the basis of content, it violated the press clause of the First Amendment. Justice Harry Blackmun's concurring opinion agreed that the statute violated the establishment clause, but Blackmun carefully elaborated on the entanglement of constitutional values and provisions in the case:

"The Texas statute at issue touches upon values that underlie three different clauses of the First Amendment: the free exercise clause, the establishment clause, and the press clause. As indicated by the number of opinions in this case today, harmonizing these several values is not an easy task."⁸

The principle of equal protection requires that government justify burdens imposed on "suspect classes" of people, including classifications based on race, gender, or religion. The religion clauses mandate government neutrality toward religion, but, as Justice John Harlan stated in *Waltz v. Tax Commission*, "the requirement of neutrality . . . requires an equal protection mode of analysis."⁹ Thus, the Court found a violation of both equal protection and the First Amendment in cases in which Jehovah's Witnesses are denied the right to use the public parks for a religious purpose, while members of other religious denominations are provided access to public property for their religious activities."

Professor Kent Greenawalt explains how equal protection principles apply to religion: "Overarching the tests of the religion clauses is the equal protection principle that suspect classifications, including religious classifications, are sustainable only when necessary to achieve a compelling state interest." Indeed, religious groups are defined by many, if not all, of the characteristics commonly used by courts to define a suspect class.

"In terms of the basic concern that legitimates heightened scrutiny under the equal protection clause, that of rigorously reviewing laws when the results of the political process cannot be trusted, laws discriminating against religious groups require the same level of scrutiny directed at laws discriminating against racial and ethnic groups."¹²

In *Larsen v. Valente*'¹³ the Supreme Court noted that "the clearest command of the establishment clause is that one religious denomination cannot be officially preferred over another." Equal protection principles require a similar conclusion.

Religion clause protection also overlaps basic privacy and autonomy principles. Indeed, the core idea of religious liberty is, in essence, an autonomy right. It protects the individual's self-defining decisions regarding how or whether to relate to the divine and how to answer ultimate questions about life and meaning.

One of the seminal privacy cases recognized that parents have the right to send their children to a religious school. In *Pierce v. Society of Sisters*, plaintiffs argued that a state law requiring all children to attend public school "conflicts with the right of parents to choose schools where their children will receive appropriate mental and religious training."¹⁴ The Court agreed and struck down the challenged state law, reasoning that "the child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations."¹⁵

The Court also emphasized the privacy and autonomy dimension of religious freedom in *Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints v. Amos*,¹⁶ in upholding amendments to Title VII of the Civil Rights Act permitting religious organizations to discriminate on the basis of religion in hiring staff. The Court recognized that "religious organizations have an interest in autonomy in ordering their internal affairs" and that the Constitution protects "the authority to engage in this process of self-definition" from state interference.¹⁷

Conceptually, the very genius of the religion clauses is that they secure the right of Americans, individually and in groups, to carry out their religious practices free of government coercion or interference. At its core, then, religious freedom is a privacy and autonomy principle.

Recognizing that fundamental rights are closely intertwined is a beginning of the discussion but not its end. It is equally important to grasp just how serious is the threat to the panoply of rights from the erosion of one.

First Amendment principles of free religion, speech, press, and assembly have a philosophical foundation. They are grounded in the primary value of the individual. The supreme value under our constitutional order is not the community but the individual. Yet this fundamental commitment began to shift long before September 11.

One example of this is the Supreme Court's declaration that protecting the free exercise of religion as a fundamental right would make "each conscience a law unto itself," resulting in "sheer anarchy."⁸ But if protecting the rights of conscience leads to anarchy, then this calls into question our method for protecting other First Amendment rights. Free speech, press, and assembly are also rights of conscience, along with religious freedom. If government can restrict religious freedom so long as it crafts laws that do not overtly target religion,⁹ then why cannot the same method be used to restrict speech and press?

That the courts have not yet descended into such an assault on our other freedoms does not negate the fact that such a foundation has

been definitely and firmly established.

The new war on terrorism is likely to result in restrictions on speech and press, in the name of national security, long before religion is directly restricted. Already some voices have been heard suggesting that publishing the president's itinerary constitutes "treason." In times of war national security does justify a certain amount of "prior restraint" on the publication of war-related information such as troop movements, military strategies, and the like. This is hardly controversial.

The war on terrorism, however, carries with it unique threats to religious liberty precisely because of the religious dimensions to the war. We may stop short of rounding up Muslims in America and yet, through racial profiling and discrimination, jeopardize the freedom of American Muslims. While restrictions on the dissemination of the Muslim faith, generally, may be unlikely, it is not hard to imagine that suspected terrorists could eventually be arrested and charged with teaching anti-Americanism in the name of Islam. The war on terrorism necessarily invokes a war on an ideology of hate that advocates the use of violence. Indeed, curricula of Islamic schools could well be scrutinized and actual teaching monitored to ensure that terrorist propaganda is not disseminated here at home. Such "excessive entanglement" with religious institutions and teaching implicate both religion clauses, as well as rights of free speech, press, and assembly. Even if such teaching stopped short of posing a "clear and present danger," under historical legal standards such restrictions would seem necessary and acceptable to many, if not most, Americans. An historical precedent for government intrusion into the worship activities of churches is found in the sanctuary movement during the Reagan years, when the FBI infiltrated churches suspected of harboring illegal refugees of Central American nations. Such government monitoring has a decidedly chilling effect on the faith community and on its communal worship experience.

But no right is an island. A European visitor to America not long ago was heard to remark that Americans were "too free." This may be about to change.

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Union Free School District, 508 U.S. 384

(1993); *Rosenberger v. Rector and Visitors of the*

University of Virginia, 515 U.S. 819 (1995);

Good News Club v. Milford Central School, 121

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73 (1951); *Fowler v. Rhode Island*, 345 U.S. 67, 70 (1953) (Frankfurter, J.,

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"268 U.S. 510, 532 (1924).

Ibid., p. 535.

"483 U.S. 327 (1987).

"*Ibid.*, pp. 341, 342.

"*Smith*, *supra*, at 1606.

"This is precisely the state of our constitutional law: "facially neutral laws of general applicability" can restrict religion severely yet be

subject to virtually no judicial review.

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MARCH / APRIL 2004

Down The Rabbit Hole

One Man's Descent Into The Black Hole Of Intolerance.

BY: CELESTE-PERRINO
WALKER

America: the land of the free and the home of the brave, where you~ can say what you think and think what you want. Those are rights many of our countrymen have fought and died to defend. In their wildest dreams they probably never imagined that in our country a man could be hauled off to a mental institution for voicing objections to material many would categorize as, to put it nicely, blasphemous and obscene. Michael Marcavage never thought so either. He found out the hard way.

In our land of free speech and freer thinking he must have felt like he'd taken a dive down Alice's rabbit hole— on the end of the ~ite Rabbit's leash. There are few things so sickening as the knowledge that the world no longer makes sense, that "it takes all the running you can do to keep in the same place. If you want to get some- where else, you must run at least twice as fast as that."¹

Marcavage s bizarre nightmare in Wonderland began in October of 1999. He was a junior at Temple University in Philadelphia, Pennsylvania, when he learned that a production of the controversial play *Corpus Christi* would be performed on campus. The play, written by Terrence McNally, features Jesus Christ as a homosexual who has sex with His disciples, is betrayed by His lover, Judas, and crucified for being "king of the queers" "It disturbed me that my school would be allowing this to be performed" said Marcavage. "I immediately went and voiced my opposition to the dean of the School of Communications and the president of the university. They basically told me that this is something that they are going to allow to happen and that there wasn't much they could see themselves doing in regards to it."

Marcavage then created flyers to make Christians on campus aware of the content of the play. His flyer urged them to contact the school and voice opposition to the production. In addition he contacted campus groups and area churches.

"I had a large amount of calls (because of the flyers);' he told Tim Wildmon and Marvin Sanders during art interview on their radio program, *Today's Issues*. "They came from as far away as Wisconsin. Pastors, students, and members of the Philadelphia community called me to get more information about what was going on. I gave them further information, and not too (long after) I received an e-mail from the associate president of the University Relations. He basically told me in the e-mail that my priorities were misplaced. And he asked me why am I not calling the troops out to protest the sex and violence on television?"

Far from being a lone cry in the dark, Marcavage's objection to the play is just one of many, including that of an Indiana group of 11 local residents and 21 state lawmakers who filed a lawsuit seeking to prevent a performance of *Corpus Christi* at Indiana University-Purdue University Fort Wayne. "This is not just an innocuous little play;" attorney John Price told the *Associated Press*. "It's a full-blown, unmitigated attack on Christianity and its founders."

Marcavage met several times with vice president of campus safety William Bergman and director of campus safety Carl Bittenbender. "I just wanted to sit down with someone in the administration level of Temple University," he says "and basically discuss this type of production and see if there were any policies that the university had in place that would prohibit sending a hateful message toward a particular group of people."

Bergman and Bittenbender were concerned about violence stemming from protests outside the theater. Their concerns were not unjustified. The content of the play is so controversial that the Manhattan Theater Club, which eventually produced the play, originally canceled it before it ever hit the boards when they were plagued with threatening phone calls about it. Artistic director Lynne Meadow reported receiving many death threats to Mr. McNally. Following that were threats to exterminate everyone connected with the play and to burn the building to the ground! When several other playwrights threatened to remove their own plays if Corpus Christi wasn't produced, MTC rescinded its decision. The play ultimately opened and was besieged by nearly 2,000 protesters enraged at what they considered to be blasphemy. After its opening in London, a British Muslim group, the Defenders of the Messenger Jesus, were so offended that they proclaimed a fatwa, or death sentence, on McNally.

Rodgers and Hammerstein this is not.

"I have to say that I never expected the university to allow it to take place," said Marcavage.

"I mean,} its just like if the KKK wanted to meet in the school of Communications and have a demonstration. There are just certain things that should not be permitted on the grounds of the university, just to respect all of the university's members. This is an issue of respect and I didn't see the students in this case respecting their fellow classmates in doing this presentation. At that point I knew that there was really not much else I could do other than, to' voice my opposition."

When Bergman repeatedly stressed his concern that a protest outside the theater might lead to confrontation between members of the student body, Marcavage agreed not to encourage a protest. Instead he disagreed to do something positive to counter the message of the play. He asked for, and received, permission from Bergman to hold a Christian outreach program to the students at Temple at the time the play was running. "I told him that we don't want to protest outside the theater; we don't want to bring negative attention to this production. We'd rather use this as an opportunity to show the students who the real Jesus is and an accurate depiction of His life:" Bergman promised to provide a stage for the presentation.

Marcavage arranged for the performance of the play Final Destiny which portrayed a biblical perspective on the life of Jesus. The Temple University Gospel Choir, Christian bands, and some outside speakers were also scheduled.

On November 1, 1999, only a week before the opposing performances were scheduled to take place, in a move smacking of good cop-bad cop strategy, Bittenbender called Marcavage to tell him that there might not be a stage after all. Marcavage was asked to meet with both Bergman and Bittenbender the following morning. At that meeting Bergman announced that a stage was definitely out of the question. Even when Marcavage offered to pay for the stage out of his own pocket, Bergman refused to change his mind or come up with a valid excuse for his refusal.

At this point, frustrated and stymied, Marcavage excused himself and entered the bathroom, where he locked the door and prayed about what he should do next. Moments later he was interrupted by Bergman, pounding on the door and demanding that he come out to finish the discussion. Marcavage opened the door and told Bergman that he considered the conversation to be over.

Bergman placed a hand around Marcavage's shoulder and forcefully guided him back toward the office. "He said, 'Let's talk about this a little bit more,'" Marcavage said. "I told him, 'Our discussion is over-there's nothing else that needs to be talked about.' As I tried to turn to leave he continued to put more pressure on my shoulder and forced me back into his office. He sat me in the chair in front of his desk, held me in the chair with his right arm, and wouldn't allow me to leave."

Marcavage tried to get up repeatedly, saying it was time for him to go. Finally Bergman let up on the pressure a little, and Marcavage stood up.

Bergman tripped him to the floor; then Bergman and Bittenbender tossed him onto the couch in the office and held him there. Soon after, police officers from the Temple campus arrived. Marcavage was placed in handcuffs and escorted out of the office and downstairs to a waiting police car. Denise Walton, a university staff psychologist who was present as Marcavage was being led by police out of Bergman's office, later stated that she couldn't understand why Marcavage was being involuntarily detained.

"I wasn't told where I was going. I wasn't read any rights. I didn't know if I was being arrested or where they were going to take me, so it was a frightening experience," Marcavage recalled.

Bergman and Bittenbender apparently agreed with the Red Queen's approach to settling all difficulties, large or small: with a quick "Off with his head." If they couldn't stop Marcavage, well, at least they could lock him up to get him out of the way. And, unbelievably, so they did.

Under Pennsylvania law anyone committed involuntarily for a psychological evaluation has to meet certain criteria. He must present a clear threat to himself or others, or there must be reasonable probability of suicide unless treatment is afforded. When interviewed, university students who know Marcavage personally (one of them a registered nurse who saw him the morning of his meeting with Bergman and Bittenbender) were unanimous in their opinion that Marcavage was not a person who would do anything requiring a mandatory mental examination. Nevertheless, he was involuntarily committed to the Emergency Crisis Center at Temple University Hospital. Bittenbender filled out and signed an application for involuntary emergency examination and treatment. In the application Bittenbender claimed that Marcavage was a danger to himself or others, had attempted suicide or made threats to commit suicide, and was severely mentally disabled.

Marcavage waited three hours, half of that time in handcuffs, to be evaluated by Dr. King, the on-call doctor and examining physician. "I was in a suit," Marcavage said. "Everybody was looking at me; they thought I was out of place.

They asked me' what I was doing there, and I told them, 'That's a question you're going to have to ask Vice President William Bergman.' "After Marcavage was finally examined, Dr. King could find "no apparent grounds" for involuntary commitment, and he was discharged.

To add insult to injury, when Marcavage attempted to file a report at the Temple University police station, the officers refused, saying that they couldn't file a charge against Bergman, as he was their boss. Shortly after, Bittenbender arrived and informed Marcavage that there would be no report since there had been no crime. The only recourse available to him was to file an incident report with the Philadelphia Police Department, which he did.

Efforts to gain any sort of recourse through university channels met with similar failure. Marcavage finally approached the American Family Association's Center for Law and Policy (CLP) for help. "I tried to resolve this within the walls of the university," Marcavage said. "I tried to bring some closure to it before it ever went any further than the university, but unfortunately they chose to ignore what happened."

Senior trial attorney Brian Fahling is handling Marcavage's lawsuit against Temple University, Bergman, and Bittenbender. "This kid is as solid as a rock. Besides being a college student on the dean's list, Michael was a White House intern with security clearance, is

founder and president of a ministry called Protect the Children, president of his own business, and a volunteer who has worked with Campus Crusade for Christ and gone overseas with Feed the Children," Fahling said. "This is a good Christian kid who wanted to stand up for Jesus, and instead was handcuffed and dragged to a mental hospital as if he'd been seeing pink elephants"

The incident raises many questions, none of them with comforting answers. When is what you think so objectionable, in our free country, that anyone has a right to cart you off against your will for speaking your mind? Can it happen? It did. Will it happen again? That might depend on the outcome of Michael Marcavage's case.

"You pinch yourself" said Fahling. "Then you get documentation and confirmation of the events and it just leaves you dumbfounded. Fortunately, I think, this is an extreme case, but oftentimes extreme cases become the mundane if they're not addressed swiftly and powerfully, and that's what we're hoping to do."

In an online forum discussing an article about what happened to Michael Marcavage, someone identified as "Gritty" left this message: "This is outrageous. This is behavior akin to the old Soviet Union, not America. I think this is one instance where a lawsuit is warranted, and probably even jail terms for the perpetrators. My hope is Marcavage ends up owning Temple University!" Despite the malice in "Wonderland," Marcavage could be the one left with a Cheshire cat grin.

Celeste-Perrino Walker writes from Rutland, Vermont.

1 Lewis Carroll, *Through the Looking Glass: and What Alice Found There* (1862-1863).

2 Interview with Tim Wildmon and Marvin Sanders, *Today's Issues*, American Family Radio, Aug. 24, 2000.

3 "IndiDa Group Fights Corpus Christi Play;" *Maranatha Christian Journal*, July 6, 2001.

4 Claude Brodesseur, 'Corpus Christi' rises again (Manhattan Theater Club-'rescinds cancellation of controversial Terrence McNally play), Copyright 1998, Cahners Publishing Company, Copyright 2000 Gale Group, June 1, 1998.

5 Ed Vitagliano, "Christian Student Dragged to Psych Ward After Dispute Over Blasphemous Play;" *American Family Association Journal* - Jan. 8, 2000.

, www.freerepublic.com.

MARCH / APRIL 2002

The 10-Foot Pole

Early last year Southern Baptist Theological Seminary in Louisville, Kentucky, received a call from a press agency. The caller wanted someone in the seminary's administration to go on record supporting President George W. Bush's plan to fund faith-based organizations (FBOs). The presumption of the caller was that since Southern Seminary was under the auspices of the conservative faction of the Southern Baptist Convention that now controls the SBC, the conservative leadership there would support the Republican program. Surprise, surprise! The caller was told politely that no one in the seminary administration supported such funding.

The following evening, speaking informally to a group of scholars who had gathered at Southern for a conference, seminary president Al Mohler explained the administration's position: "When the church takes money from Caesar, the church is corrupted."

It has been popular in some quarters in the past two decades to see Mohler and the other Southern Baptist conservatives who now control the SBC as constituent members of the Religious Right and even the Republican Party. Oftentimes this indeed appears to be the case, and yet there are clear differences between SBC conservatives and moderates on a variety of church-state issues. The conservatives usually align themselves in the accommodationist camp, while moderates are more apt to be separationists.² On the issue of Bush's plan to fund FBOs, however, it is becoming clear that if you scratch SBC conservatives just right, they're still pretty wary of government funding of religious enterprises. In fact, on the issue of FBOs there isn't that much difference between the conservative and moderate Southern Baptist spokespersons.

On the moderate side the Baptist Joint Committee (BJC) in Washington, D.C., represents and gives voice to the Southern Baptist separationist position on church-state and religious liberty issues. Prior to the conservative takeover of the SBC, the BJC received the bulk of its funding from the SBC even while representing several different Baptist bodies in the U.S. When the conservatives took over the denomination in the 1980s, one of their earliest significant moves was to completely defund the BJC, so sure were they that the agency did not represent their views.

James Dunn had been the executive director of the Joint Committee for more than two decades. He has now been replaced by Brent Walker. Both Dunn and Walker have spoken out recently against Bush's funding of FBOs. Writing in the BJC newsletter in February 2001, Walker listed five problems with the Bush plan:

1. It breaches the constitutional wall between church and state by funneling tax dollars to sectarian organizations.
2. It will result in excessive entanglement between church and state as the state seeks to regulate that which it funds.
3. It will dampen the prophetic role of religious groups as they find it ever more difficult to criticize the hand that feeds them.
4. It will endorse discrimination, as religious groups receiving the funding will be allowed to continue to discriminate in their hiring practices.
5. It will encourage an unhealthy rivalry among religious groups as they vie with each other for government largesse.

Derek Davis of Baylor University's J. M. Dawson Institute of Church-State Studies has argued many of these same points from a separationist perspective very similar to Walker's. The Dawson Institute under Davis's leadership has taken a keen interest in this issue, having hosted a conference in 1998 that resulted in an edited book entitled "Welfare Reform and Faith-based Organizations." The book contained chapters by those who support and those who oppose charitable-choice initiatives such as those that Bush is promoting.⁴

Davis's own view is that while the efforts to fund FBOs are laudable, springing from genuine social concern, funding will create serious problems in the long run. In addition to Walker's arguments on entanglement and regulation Davis also posits that as religion becomes aligned with government, the result will be a decline in religious fervor. "America has thrived in large part because of its deep religious commitments," he was quoted as saying in a January 2001 press release. "If these commitments decline, and I believe they will under these initiatives, then America will suffer and lose part of the secret to its success."⁵ Davis bases this view on his comparison of this country with Europe, where the church has long been aligned with government. Davis fears that eventually Americans will come to see state-funded FBOs as just another government program. As a result, the vitality that has derived from American-styled separation of church and state will be jeopardized.

Citing these same concerns, a group of 14 Baptist leaders signed a statement in early spring 2001 registering their resistance to Bush's funding plan. The signers were brought together by the BJC and included several from the moderate wing of the Southern Baptist Convention. Dunn and Walker were joined by former Southern Baptist Convention president Jimmy Allen, former Christian Life Commission executive director Foy Valentine, former Southern Baptist Sunday School Board director Grady Cothen, former Women's Missionary Union director Dellanna O'Brien, and Stan Hastey, of the Alliance of Baptists, an organization of more liberal former Southern Baptists. Along with a few non-Southern Baptists, some of them African-American Baptists, the list of signees reads like a who's who of moderate former SBC leaders. In addition to opposing the funding of FBOs for the reasons articulated by Walker and Davis, this group also opposed Bush's creation of the Office of Faith-based and Community Initiatives, initially headed by social science scholar John

Dilulio. "It is one thing for the White House to set up a liaison office to ensure that religious groups are apprised of events that affect them," the document read in part. "It is quite another to set up a high level agency to take an active lead in spearheading and shaping policy that could harm religion."⁶

Such Baptist opposition to funding for FBOs would be expected from the separationist moderates of the old SBC, but as the example of Mohler shows, this opposition transcends the usual moderate-conservative divide in the denomination. While not as vehemently opposed to Bush's funding plan as Walker, Davis, or Dunn, Richard Land of the SBC's Ethics and Religious Liberty Commission issued a fairly stern warning for those FBOs planning to capitalize on government funding. Land usually finds himself on the opposite side of establishment clause issues from the BJC. In fact, it was the conservative SBC's debunking of the BJC that led to the development of an ERLC presence in Washington to represent the new SBC in a much more conservative way than the BJC had.

Land's position, nevertheless, like that of the moderates, included a stern warning about government regulation. He softened this warning somewhat by pointing out that Bush would not always be president. The clear implication was that while Bush might do no harm to FBOs, a less conservative and less religion-friendly administration (i.e., a Democratic president) could pose real problems for FBOs in the future.

The clear difference between Land and the moderates was his belief that the Bush plan was constitutional. This being the case, he argued, each religious organization was going to have to carefully consider whether or not to be involved. "As for me and my house:" Land said, "I would not touch the money with the proverbial 10-foot pole?"⁷ He then listed conditions he would like to see in place to make the funding of FBOs more safe.

Of the prominent Southern Baptists and former Southern Baptists who have spoken out about FBOs, the most hopeful is Mary Knox, the editor of the moderate Texas Baptist Standard. Knox usually finds himself lined up with moderates against the likes of Land and Mohler, but on this issue he cited the example of the Kentucky Baptist Homes for Children, which has contracted with the state of Kentucky for many years. Recently this organization was faced with the decision to either drop its prohibition against hiring homosexuals or forfeit state funds. Knox hopes that the Bush plan will allow government funds to continue to flow to such agencies while still protecting their right to be sectarian. He summed up his view as "let's find a way."

The one thread that ties all these Southern Baptists and former Southern Baptists together is a genuine concern for religious liberty, which in the case of FBOs manifests itself on the issue of government regulation. None of these southern leaders is anywhere near as enthusiastic in support for Bush's plan as is Ronald Sider, the northern Baptist activist and head of Evangelicals for Social Action, or many African-American Baptists whose churches run large inner-city FBOs. Clearly, while the moderates who formerly led the SBC and the conservatives presently in charge have very significant differences on some church-state issues, they all blanch when government money starts flowing to religious organizations. At the least they want assurances that the money will not be used to promote religion, that no religious group will be discriminated against, and that government regulation will not become the heavy hand that significantly limits religious liberty.

When this article was placed the faith-based initiative was taking a back seat to post-September 11 war efforts. HR7 had passed handily and was

still awaiting Senate passage. It seems certain to pass in some form. How the new initiative will fit into the wartime dynamic with overtones of religious extremism remains to be seen—Editor.

I was one of those present at the meeting at Southern Seminary. Mohler told of the press phone calls while speaking at the conference, then elaborated on his own views in an informal conversation at a reception following the meeting.

'For the differences between SBC conservatives and moderates see Barry Hankins, "Principle, Perception, and Position:

Why Southern Baptist Conservatives Differ From Moderates on Church-State Issues[Journal of Church and State 40 (Spring 1998): 343-370.

Brent walker, "Buyer's Remorse Likely for Those Who

Embrace 'Charitable Choice?'" Report From the Capital, Feb.

2001, p. 3. For James Dunn's views see Report From the

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Kenny Byrd, "Baptist Leaders Issue Statement on Faithbased Plan?" Associated Baptist Press, April 6, 2001.

Richard Land, "Constitutionally Safe, Religiously Dangerous?" Beliefnet, April 6, 200t, p. 1.

Mary Knox, "Faith-based Ministries: Let's Find a Way?" Cooperative Baptist Fellowship—www.cbffonline.org, Mar. 28, 2001.

MARCH / APRIL 2002

Tis The Season

BY: LINCOLN E. STEED

By the People

By Lincoln E. Steed

A cold Christmas we had of it; what with plummeting economic indicators, spreading unemployment, tears to anthrax on even Christmas mail, and the prospect of continuing shocks in the ongoing war with terrorism. So much has changed in only a few months. And so much change continues to be justified by the situation.

In these back-to-the-Bible times, for this sometime Christian nation there have been more than a few Bible verses cast to the public maw. Some are comforting to those of us who are Christian—after all, there is a peace promised to the believer that goes way beyond the ritual remembrance of a Christmas Gift. Some, unfortunately, are used in a way that is inflammatory to both true Christians and nonbelievers; exploiting the public panic as they conflate recent events into a wrath of God message.

And others are well-intentioned misreadings that can lower our guard to the real issues.

Take Ecclesiastes, a perfectly benign analysis of conventional wisdom back in the days of King Solomon. It's a collection of pithy observations made by a "preacher king" back from a wide-ranging search for meaning that led him to conclude that "all is vanity" other than "fearing" God and "keeping" His commandments. Any reading of the full text shows the alternation between what the author "saw," and what he came to "know" as a result of rejecting the popular wisdom and looking to God.

And, yes, the preacher "saw" that "for everything there is a season." It's lovely poetry, and the inspiration for sixties folk songs, but actually a sad commentary on the moral wanderings of society. "A time to be born, and a time to die," used so often at funerals, should be seen less a truism than the biblically rejected view of fate and predestination. "A time to kill," "a time to hate," and "a time for war" sound like sweet justification for a nation inclined toward revenge: but to so read these words wrongly tilts holy writ toward the jihad tone we deplore in others. And so it goes through the poetic seesaw of those first nine verses of the third chapter of Ecclesiastes—nice cadence, but taken literally, and out of context, a collection of "satanic verses."

After September 11 the rush to seek redress via military means was so generally supported that a developing discussion on what constitutes a just war was swept away as unnecessary. We have accepted quite uncritically the need for a military "crusade"—which lies well within the right of a state to declare—and erred greatly, believe, in casting the issue in purely black and white moral terms. Killing in the name of is not granted to any people side of a theocracy. And to so presume and claim is to descend the same mindset as those cast us as infidels to be eradicated.

There are indeed times when nations go to war and kill—but national self-interest is a poor lens to divine the will of the Almighty. We need to keep this in mind: encounter citizens willing to on conscience and claim the right of noncombatancy—religion has many facets, and this is sure to be tested in a conflict with moral overtones. During the Civil War President Lincoln pains as part of his second inaugural address to remind all "both [sides] pray to the same God; and each invokes his against the other. . . . The prayers of both could not be answered March 4, 1865.

That same misused pas from Ecclesiastes tells of to keep and "a time to cast away." Descriptively true, this is suspect if put into action. The United States was founded on a high concept of universal human rights and freedoms, which was in large part derived from a theological view of mankind as the creation of a just God. Those principles have not only served to protect freedom and religious liberty in the United States, but have been used as a moral springboard to demand the same of all societies. Much of the cold war was actually a battle to project certain views of the rights of the individual. And the rationale for American "secular evangelization" has been the fostering of freedom rights in the world at large.

But since September 11 there has been a chilling shift in the view of humankind projected by the U.S. Quite naturally we have tended to demonize those who planned and perpetrated the outrage. The search for the enemy within has produced much rhetoric about hunting down and destroying those who would do us evil. And out of that natural yearning for justice has come talk that marginalizes the rights and humanity of those suspected of being terrorists. Posse talk tends to produce lynchings, and we face that danger.

It is worth noting that several friendly countries have declined to deport suspects out of concern that they might receive less than a fair trial in the U.S. The Patriot Act, the Executive Order authorizing military trials for terrorism suspects, and the present actions against aliens all operate on the assumption that noncitizens have greatly diminished human and legal rights. This is a curious shadow to the original complaint from the American revolutionaries of their diminished rights. But it becomes even more hazardous an attitude to continued freedom if we contemplate that this battle against terrorism, being partly a battle against the enemy within, can more easily cull out and dehumanize any dissonant element if rights are stratified. And I say "rights," believing as this issue of Liberty argues, that "No Right Is an Island."

This is no time to cast away the principle that "all men are created equal, that they are endowed by their Creator with certain rights"; no time to cast away the basic maxim of American (and British) jurisprudence that a person is "innocent until proven guilty."

This is no time to descend into the moral and theological convenience that in another age led churchmen to define certain races and peoples as nonhuman. This is no time to fall prey to mullahs and ministers who would return God to a sort of state icon of national uniqueness. This is also no time to fear religion as the province of fanatics and madmen.

No, indeed. Going back to the conclusions of the preacher in Ecclesiastes, "the end of the matter," he concluded, "all has been heard. Fear God, and keep his commandments; for this is the whole duty of man. For God will bring every deed into judgment, with every secret thing, whether good or evil."

"I never change," says the God of the Bible. What was right and godly once remains so. Oh, there's plenty of talk in the Bible about time. God has determined in foreknowledge—not manipulation of human will—when evil will get its comeuppance and everlasting righteousness will come in. And He speaks often of taking the time to worship Him—I happen to put a lot of stock in the fourth commandment of Exodus 20, where God reiterates a time requirement to worship Him on the seventh day of the week. Evidently God's time requirement is not the flexible worldview imagined by quick readers of Ecclesiastes. He says it was established as a sign "forever."

The Christmas season is long past as you read this, even if it was the present inspiration for my thoughts. It's important we separate the tinsel of the season from the true gift Christians celebrate. Just so, it's important that we don't lose the uniqueness of our freedoms in the day-to-day shabbiness of the struggle for national survival.

No, there is not a proper time for everything. Some things are eternal, irrevocable. If freedom—liberty, religious liberty—means anything

at all to us, we must recognize it as an absolute; not a convenient moral stepping-stone.

Thus endeth the reading. Pardon my preaching.

Lincoln Steed, Editor

*Verses from Ecclesiastes and Exodus are quoted from the Revised Standard Version of the Bible.

MARCH / APRIL 2002

Bringing God To The Pentagon

BY: CHAPLAIN BILL BROOME

Bringing God to the Pentagon

By Bill Broome

Bill Broome was at ground zero the day the Pentagon was attacked. He works in the Personnel Department at the Army Chief of Chaplains Office. He helps make assignments for Army chaplains all over the world, but his job is not about paper-it's about people.

These are serious times. As I hurried to the Pentagon on the morning of September 11, I was mindful of a Bible text that says we will "hear of wars and rumors of wars." Jesus predicted this sort of situation in the times preceding His return to the earth. That went through my mind, and a sudden peace came over me, even though the situation was troubling.

My new office was to be in the newly renovated wing, right where the plane penetrated the Pentagon. It was still going to be some time before we moved back in, as they had a lot of renovating to do. Until 1997 the Chief of Chaplains Office was right there at ground zero, in the office where Lieutenant General Maude lost his life. Window spaces at the Pentagon are at a premium, so many of the general officers had their rooms along that section, which looks out over the heliport.

I had been working at our temporary offices at the Residential Towers over in Crystal City, which is about 15 minutes away. I was watching television, trying to comprehend the horror of the attack on the World Trade Center and wondering what exactly was going on. Then the room seemed to clear. The colonels and the one general there, Dave Hicks, our deputy chief of chaplains, went out and began to look at other things. I lingered just a little bit longer, kind of dazed, I guess, as I watched the television news. Suddenly a news flash came on that the Pentagon had been hit. I ran out to the others and said, "You won't believe this; the Pentagon has been hit!" Sure enough, we looked out our window and saw the billowing smoke. Grabbing our berets, we headed out and literally ran over to the Pentagon.

When we got there, I was amazed at the security that was already in place. Men with machine guns, Secret Service agents with machine guns standing guard, turning everyone back: "Get away. Where's your identification?" But when they saw our crosses, they said, "Chaplains, you're needed" And they let us through.

We ran around to the side of the Pentagon that had been hit and got there just as the wall fell, amid screams, amid scenes that I hadn't thought I could see again after Vietnam. As we rounded the corner we asked, "Where are the wounded? What can we do?"

Chaplains were already stationed with those wounded who had been pulled out. Unbeknownst to us at that time, those were the last people from that area who would get out. We knew that there were others in there who were alive at that time, but the flames, the smoke, and the toxic fumes did not allow us to go in after them. It was very, very frustrating.

As we walked around ministering to those who had just come out of the building, we were asking "OK, how do we form this up?" A structure began to take place. We placed chaplains with each rescue team that was preparing to go back in. Teams of volunteers-men and women in uniform and in civilian clothes-were all saying, "We want to go back in and get our friends out if we can" We got into the hallways several times, but the smoke and acrid fumes turned us back. It crossed my mind-and, I'm sure, the minds of many others- that there was not going to be much hope for anyone left in that building.

As the day wore on, we stood helplessly, watching the Pentagon burn. It was really the very strangest feeling. We formed up, saying, "We need to have some chaplains here on this site. We need to put together a chaplains' operational cell so that we can direct where people need to go. We need to put chaplains over with the Mortuary Affairs. We need to put chaplains with teams going in and coming out:'

We began to organize. Then I looked up, and here came Admiral Biggers, one of our Seventh-day Adventist one-star admirals on active duty. I'm sure Admiral Barry Black, the chief chaplain, would have been there as well but for the fact that he was stuck on a submarine off the West Coast. When the flights shut down, he couldn't get back. Our Adventist chaplains were right there at the front. We recognized the unfolding of prophecy in these events. And like most of our fellow citizens we knew that this would take our nation onto yet another stage: a stage we now look at as warfare on our home front. Still, amid all the chaos, a peace came to me as I thought of God's leading for those who trust Him.

Let me tell you Just a little bit about what the chaplains did during that difficult time. That evening I took over as head of our operational cell that directed the 12 different sites where chaplains served. I took the night shift, and we began to run 12-hour shifts on a 24 hour operation. I did eight days on the night shift. It was extremely tiring, but we wanted to keep tabs on what our chaplains were doing and where they were.

Probably the most difficult assignment was mortuary detail. When a plane loaded with jet fuel hits a building you can imagine the carnage. Well, really, you can't imagine it. I can tell you about it, but you can't imagine it unless you've actually seen the horror and the devastation that brings to human body. I'm not going to go into morbid detail, but I want you to try to imagine what soldiers, rescue workers, FBI teams, and chaplains had to deal with.

We had a chaplain stationed with every group that brought out human remains. A Protestant chaplain and Catholic chaplain said prayers over those remains. Not really for those remains; they were beyond knowing. It was for those soldiers, it was for those rescue workers, who looked over as they brought out the remains and said, Chaplain, what do you have to say?"

Rick Spencer is a young priest I work with-a tremendous guy. He walked over to the soldiers, put his hands on them, and said, "You're doing what's needed. You're doing what God wants you to do at this time;" I'll tell you there was a peace that came over those young soldiers. They were a hand picked, as the sharpest-looking soldiers in the Army, for the Old Guard. They are all over six feet and when you walk by them it is really intimidating. Their dress uniforms look really sharp, their weapons are all shined up, they carry swords, and they do the dress ceremonies at funerals. They do all the dress ceremonies when the president is around.

Another chaplain was stationed with the FBI agents. As you might know, the FBI took over the site as a criminal investigation. It was kind of strange for the military to be told by the FBI, "Here's what happens. And no, General, you can't go over there; we run this site;' Some of our generals had a difficult time ,with that.

Once the remains were taken from Mortuary Affairs they were turned over to the FBI down by the river, where no news cameras could film and intrude. The FBI then had to investigate the remains to identify the terrorists. They were looking for any identification-any

material that they could use in the criminal investigation. The chaplain stationed there was Jim Bolens, another Lieutenant Colonel who works in the Pentagon, and a very good friend of mine. Those agents had to actually search through the bodies. As he spoke with them, they said, "We've never had to do these kinds of things before."

Just recently I spoke by phone with Seventh-day Adventist Chaplain Jonathan McGraw in Hawaii. He is spearheading a family wellness program for the Army, and we know it is going to be needed. We don't know what the days ahead are going to bring, but we do know that they are going to be difficult for families.

Some of the other chaplains went immediately to the Family Assistance Center, which was over at the Sheraton in Crystal City. The Sheraton staff opened their arms and their hearts and said, "We'll give you free rooms for the families who need to come in to find out about loved ones. We'll give them meal tickets; we'll give you counseling rooms; and we'll give you everything you need." At that Family Assistance Center people could come and talk to Navy, Air Force, and Army chaplains. While only the Navy and Army lost personnel, the Air Force gladly came over and helped.

I had to go over and do notifications for next of kin for families who were waiting, really, with no hope. However, they were glad that we could tell them that their loved one had been identified. But the remains could not yet be released, because of the criminal investigation. These are hard times; these are difficult times. Your prayers need to go out for all those families who are going through this and for the chaplains who bring them comfort.

Chaplain (Lieutenant Colonel) Bill Broome works out of the Pentagon. He has 22 years of active duty in the US. military. Some of that time he served as a helicopter pilot in Vietnam. Most of his service has been as a chaplain-going where there is a spiritual need.

MARCH / APRIL 2012

Faith In Action

BY: DICK STENBAKKEN

Faith in Action

By Dick Stenbakken

Just how do military requirements and religious responsibility fit together? How does someone with deeply held religious convictions work within the context of equally deeply held civic and military responsibilities? Where does one find help in balancing these two important parts of life? In the United States military there is a religious and military specialist whose job it is to bring balance and focus to these sometimes opposite pulls: the chaplain.

Chaplain (Lieutenant Colonel) Bill Broome, currently serving as personnel assignments officer at the Army of Chaplains Office, is one of 40 Seventh-day Adventist chaplains on active duty in the U.S. military. The joined by another 80 in the National Guard and Reserve. chaplaincies and other military auxiliary units such Civil Air Patrol.

Adventist military chaplains are serving at every rank and level, from chief of chaplains (two stars) and chief (one star) right down to the newest chaplain in a basic troop unit. Adventists have been serving as chaplains in the military since June of 1933, when Virgil Hulse became the first Seventh-day Adventist chaplain in the Army.

Seventh-day Adventist chaplains work alongside professional clergy from more than 200 different faith and denominational backgrounds. Each must be endorsed (by their own denomination) to enter and remain as a military chaplain. In effect, the church "lends" clergy to the military to bring about the spiritual mix that is a reflection of the glorious diversity of the United States and its population. Chaplains must meet strict educational, spiritual, and professional standards. They all serve without carrying a wage; going wherever their people go, including into combat.

Military chaplains serve as staff officers to inform the command of the religious needs of the unit's members and to promote the constitutional guarantee of free exercise of faith—as far as that is possible, given the operational constraints of military reality. The chaplain's responsibilities are to help military members meet their spiritual needs while at the same time balancing the command's operational and training responsibilities. That often means being creative with both the military person and the command as all parties seek to find a reasonable religious accommodation.

Sometimes it means "pushing" a serviceman or servicewoman to see just what their religious convictions and limits are. Sometimes it means confronting a commander on behalf of a faith stance that the chaplain does not personally hold or agree with.

There is a wide chasm between convenience and conscience, between operational necessity and opinion. Each military member has the right to practice his or her religious beliefs as long as those practices do not deter or damage the mission, health and safety, or unit cohesion. On the other hand, the command has a mission for which they are held responsible. That means everyone in the command must be up to par on training. Lives depend on it. So the chaplain must not only string a theological/operational tightrope, but also walk with both the commander and the believer on that strand as a solution is sought.

A chaplain is chaplain to all and pastor to some. That means meeting the needs of military members directly or connecting an individual with his or her own faith support group. Chaplains are not required to violate their own religious convictions (Protestant chaplains would not conduct a Catholic Mass), but they are charged with meeting religious needs within the boundaries drawn by military necessity and safety. The challenge is to keep a balance between military life and faith and to see that each strengthens the other.

It is worth noting that the first Christian church of non-Jewish origin was formed in the house of a military man, Cornelius, the centurion (Acts 10). Yet, while there is a long history of balancing Christian belief and military service, it is still a challenge. It is a challenge that chaplains such as Bill Broome gladly accept.

Chaplain (ret.) Dick Stenbakken is now director of chaplaincy Ministries for the Seventh-day Adventist Church.

MARCH / APRIL 2002

Family Matters

BY: TRUDY J. MORGAN-COLE

The home was not notorious in the community as an abusive one. In fact, the family-members of a conservative Christian group called the Church of God, affiliated with the Mennonites-were known to their neighbors as a happy, law-abiding family with well adjusted children.

However, on July 4, 2001, an attention-grabbing scene took place on the lawn of that home in Aylmer, Ontario. Seven children were taken by Ontario children's aid workers "dragged, kicking and screaming," as some onlookers described it. Family and Children's Services of St. Thomas and Elgin (FCS) was intervening in what it believed was a case of possible child abuse."

Family and Children's Services workers removed the children because the parents believed in using corporal punishment to discipline their children. More specifically, they believe, and their church teaches, that it is appropriate to spank children using a switch, strap, or other object. A parent's hand, they say, should be an instrument of love and caring: an impersonal object such as a stick should be used for discipline. "A hand should be 'used for guidance and comfort:' says the Aylmer Church of God pastor, Henry Hildebrandt. "Plus, the hand is way too ready. If a person is angry, they may just slap with their hand. We don't believe in hitting children that way."

Christian parents who believe in corporal punishment cite biblical authority, based on verses such as Proverbs 23:13, 14: "Do not withhold discipline from a child; if you punish him with the rod, he will not die. Punish him with the rod and save his soul from death" (NIV) and "Folly is bound up in the heart of a child, but the rod of discipline will drive it far from him" (Proverbs 22:15, NIV).

Canadian law supports these parents. Section 43 of the federal Criminal Code states: "Every school teacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable in the circumstances." A group called Canadian Foundation for Children, Youth and the Law is launching a court challenge to have Section 43 overturned on the grounds that it violates children's rights. Their challenge is supported by a number of groups, including the Ontario Association of Children's Aid Societies.'

Social workers such as those at Family and Children's Services are less interested in what the book of Proverbs says about spanking than in what groups such as the American Academy of Pediatrics (AAP) have to say about it. The AAP describes spanking as the "least effective way to discipline," noting that:

- It is harmful emotionally to both parent and child.
- It teaches children that violence is an acceptable way to discipline or express anger.
- It does not teach alternative behavior.
- It interferes with the development of trust, a sense of security, and effective communication.

Canadian pediatricians tend to agree, though less strongly. The Canadian Pediatric Society (CPS) position statement on discipline

states: "The use of disciplinary spanking as a prime method of teaching acceptable behavior should be discouraged." They also note, "By definition, disciplinary spanking refers to spanking that is physically noninjurious administered with an opened hand to the buttocks, and intended to modify behavior." This definition does not include spanking with a "rod" or other object, as the Aylmer Church of God parents do. However, the CPS does concede, "Some parental groups or cultures feel it is their right to spank their children and that the parents always know best how to discipline their children."

The spanking debate rages on among pediatricians, parents, social workers, and legislators. Meanwhile, for one Ontario family life will never be the same. Pastor Henry Hildebrandt described the July 4 confrontation between his church members and the authorities in harrowing terms:

"Aylmer Police were called to enforce the order that the children be removed from the home to ensure their 'safety'. At first only one officer, the deputy-chief, showed up. A deliberation followed for approximately two hours. Another officer was called in and they attempted to enter forcefully and remove the children.

"By this time a large number of the congregation (Church of God) had arrived and were in the house with the family. As they entered the house, the Saints fell on their knees, praying mightily to God, the children clinging to the Saints. As the police tried to tear them away, they screamed agonizingly.

"The police then gave up and walked back out. The Ontario Provincial Police (OPP) were called in, and several marked and unmarked cruisers arrived shortly and closed the street. Around 10 police vehicles were there with about 10 to 15 officers and three case workers. . . . They reentered the home. . . . One by one the children were torn from the Saints and dragged and carried to the waiting cruisers, as the neighborhood looked on. As they were about to leave, the children requested their Bibles, which the officers then retrieved for them."

While we might expect Pastor Hildebrandt's account of the event to be somewhat biased, even the most objective newspaper reporters, as well as the family's neighbors, used the phrase "kicking and screaming" in describing the children's removal. Next-door neighbor Ernie Timmins (not a Church of God member) said, "It's about the most disgraceful thing I've seen in my life. . . . There was a 6-year-old girl with policemen carrying her by her arms and her legs and the fear in that kid's face was unbelievable. The screeching was so unbearable that I had to leave."

The family, whose names have not been released because of a publication ban, were reunited with their children on July 26, almost three weeks after they were removed. The seven children spent those three weeks in the care of foster parents whose religious background and practices differed sharply from what the children were used to at home. Parents were given limited visitation rights, but the children were not allowed to attend Church of God services.

Marijke denBak, acting executive director of Family and Children's Services of St. Thomas and Elgin, said that the decision to return the children home was "a good outcome for the children;" but she insisted that FCS stood by its original decision to remove them on July 4 she did not feel a mistake had been made.⁷

Meanwhile, after a second Church of God family in Aylmer was questioned about its methods of discipline, many of the local church members decided to take action. Twenty-eight mothers and 83 children left Aylmer on July 14, crossing the border to the United States where they joined sister Church of God communities in Ohio and Indiana. "Something is wrong, badly wrong, when people from cultures from all over the world are admitted and their lifestyles accepted in Canada, while Christians must escape persecution in the night to preserve their religious liberty," Church of God members assert in a statement on their Web site.

While many Canadian Christians join the Church of God members in seeing this as a clear violation of religious freedom, children's aid workers are left to make difficult decisions about where to draw the line when sometimes a parent's right to religious freedom-interferes with a child's right to safety and protection. During July 2001, while the Aylmer case was capturing headlines across the country, a much less publicized case in the small province of Prince Edward Island saw five children removed from a religious commune. In this case, too, corporal punishment was the issue: the commune's leader, a former nun, was accused of striking children with a wooden paddle up to 21 times for a single offense. The autocratic ex-nun, like the Church of God parents, claimed the Word of God as her authority for using corporal punishment.

Apart from that similarity, the two cases have little in common-in the Prince Edward Island case both former commune members and neighbors in the community clearly felt that the children were being abused. But that one similarity highlights the painful difficulties of this issue. While religious communities claim biblical authority for any number of practices, legislators and government agencies must decide how to enforce the law without violating freedom of religion.

In the Aylmer case public reaction has been largely supportive of the Church of God families-perhaps because there seems to be no real evidence that these children were abused. Rather, they appear to everyone to have been happy, healthy, much-loved children-disciplined in a way that was the norm in almost all Canadian families just a couple of generations ago. The heavy-handed approach of the FCS clearly symbolizes, in the minds of many Canadians, the government's intrusive efforts to impose its own values on its citizens.

But government's proper tool is legislation-and for now, though not everyone approves, Section 43 of the Criminal Code is still the law of Canada. Parents are legally allowed to use reasonable force to correct their children's behavior, a choice that Church of God parents, like many other Canadian Christians, feel is totally appropriate under certain circumstances.

As for the family at the center of this debate, the fall of 2001 found them united-at least for now. The parents agreed to undergo counseling to learn about alternate methods of discipline; the FCS agreed to learn more about the family's religious traditions and cultural background. A court date, originally set for September 6, 2001, was moved ahead to November 2, 2001. The outcome of that trial could determine whether the children would be allowed to remain with their parents permanently. And more than 100 mothers and children from the Aylmer Church of God remain in the United States, fleeing religious persecution in Canada-a country that has always prided itself on tolerance) freedom, and diversity.

Trudy J. Morgan-Cole writes from Saint John's, Newfoundland, Canada.

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Liberty Versus Terror

BY: DEBORAH BAXTROM

Voices cry out from newspaper editorials and TV and radio talk shows daily-demanding what most of us took for granted prior to September 11, 2001-the safety and security of ourselves and our families. This end must be achieved, the majority agrees, regardless of the impact on civil liberties.

"I'm happy to give up some of my freedoms if it means I can fly safely with my 4-year-old daughter again," states a Los Angeles man.

"What good are civil liberties if you're dead?" exclaims a woman on a radio talk show.

Such sentiments are understandable. After all, the world watched in horror as two hijacked passenger planes crashed into the World Trade Center and a third into the pentagon. We witnessed the deaths of thousands of innocent children, women, and men. The nation has rallied behind its flag and its leader in a display of patriotism unparalleled since World War II. But Americans are doing more than waving flag; we are demanding assurance that such a devastating tragedy will never happen again in this country.

President George W. Bush and the U.S. Congress answered our call in the form of an antiterrorism bill that quickly made its way through the House and Senate and was signed into law on October 26, 2001. While the bill faced little opposition in Congress, its passage has not been completely without controversy. A minority of Americans have looked beyond their shock and grief and questioned our eagerness to scrap civil liberties that we've held inviolable since the inception of our nation; liberties that our forebears fought and died to secure for our collective benefit.

Many, however, readily agreed with a woman speaking on a CNN talk show who emphatically stated, "The people who oppose the antiterrorism bill make me sick. Ask any of those who lost loved ones on September 11 if they wouldn't willingly give up some of their civil liberties if it meant having those people back."

Of course they would, but the nation as a whole has a responsibility to act in a rational, nonreactionary manner for the benefit of all of its citizens. In the past when emotion or fear have prevailed in our country, the results haven't always been exemplary. In World War I America imprisoned anti-war protesters, most of whom were immigrants. During World War II thousands of patriotic Japanese Americans were interned in camps, not because they posed a realistic, threat to national security, but simply because of their ancestry

try. And in the 1950s McCarthy's "Red Scare" ruined the careers, and often the lives, of many Americans who were accused, generally falsely, of having Communist leanings.

Could the antiterrorism bill potentially lead to similar injustices? At this writing it appears unlikely that America, will engage in seriously egregious acts based on the however, some of its dements remain controversial essence, the antiterrorism bill will:

- Allow the federal government to "trap" calls made f phones and cell phones throughout the U.S. as long as it secures an order from just one federal court. This al government authorities and law enforcement officer determine what telephone or electronic address a suspect called, but they cannot listen in on conversations without getting district authority in all 50 states.
- Broaden the powers of the special court that authorizes wiretaps on individuals thought to be foreign agents. Il past the government could use wiretaps only if the gathering, of foreign intelligence was "the" specific purpose of investigation. Under the new bill its power

has been extended to allow wiretaps if intelligence gathering is or significant part" 'of an investigation. The use of the 1 "significant" should, it is hoped, prevent the law from t used against citizens suspected of nonterrorist crimes. expanded wiretap authority will expire after two ;; unless renewed by Congress.

- Allow foreign intelligence gathered in the U.S. to be w shared among federal agencies.
- Prohibit private ownership of any biological agent could pose a threat to the nation's security unless it is cl intended for peaceful purposes.
- End all statute of limitations on terrorist prosecutions. the new bill federal courts can sentence convicted terror any term up to life in prison.
- Authorize the attorney general to detain "terrorist aliens" indefinitely (an expanded definition of what constitutes a terrorist alien is included in the bill), pending deportation hearings, these cases will be heard only in the district court of Washington, D.C. The bill also allows the government to a suspected immigrant for up to seven days without bringing charges if it has "reasonable grounds" to suspect the immigrant of terrorist activity. However, the government can indefinitely hold a terrorist alien or deport a legal alien for contributing to a group that may be determined to be a terrorist organization. In these instances the court can hear habeas corpus petitions that require the government to show cause as to why the alien is being held. How these contribution cases will be resolved remains unclear, but this is an important issue, because restricting such affiliations could upon the right to freedom of association.

Two of the most contestable portions of the bill are the minimization of judicial supervision over federal telephone and Internet surveillance by law enforcement, and ; that "secret searches" will be expanded. But cert makes sense to keep such searches covert, as it hardly be expedient to tell suspected terrorist --or the Mafia, for that matter--that they are being investigated. The objection is that this vast expansion of power will allow authorities to conduct secret s in all criminal investigations, potentially leading abuses of civil liberties.

Another aspect of the bill that makes some Americans uneasy is the indefinite detention of those who fit the definition of "terrorist aliens." It's certainly possible that some individuals may be unfairly held. A related concern is that vulnerable immigrants will be held or deported simply for being a group that engaged in a violent act, as the bill does not require the government to show that the person's support contributed to the organization's illegal activities.

In light of the fact that any expansion of governmental and law enforcement power holds the potential for abuse of that power, 12 religious organizations sent a joint letter to Congress expressing concerns over the civil liberties, including religious freedoms, that they feel may be threatened by the antiterrorism bill. In the letter the organizations (including American Baptist Churches U. S. A. the American Muslim Council, and Presbyterian Church U. S. A.) stated:

"Throughout history, leaders from many faith traditions have spoken to moments of national crisis--words of comfort, hope, and healing. At other times religious people bring a prophetic voice of truth, dissent, and challenge into the public arena. It is a role preserved by the First Amendment rights to free exercise of religion and freedom of speech. To define domestic terrorism with such broad strokes will, in essence; eradicate the very freedoms that national security is to protect."

Such voices of Caution are clearly in the minority in America today. Most believe that "desperate times call for desperate measures." This may be true, but it is also important that the courts adequately supervise police inquiries and deportation proceedings to ensure that America does not lose focus and trample upon civil liberties as it has occasionally done in the past. And it will be up to the American public to insist on this accountability.

One of America's most eminent founders, Alexander Hamilton, once stated that the threat of war "will compel nations the most attached to liberty to resort for repose and security to institutions which have a tendency to destroy their civil and political rights. To be more safe, they at length are willing to run the risk of being less free:' Words to ponder, particularly if future events require even further", desperate

measures;' tempting Americans to discard hard-won civil liberties too quickly and willingly in an effort to gain security.

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