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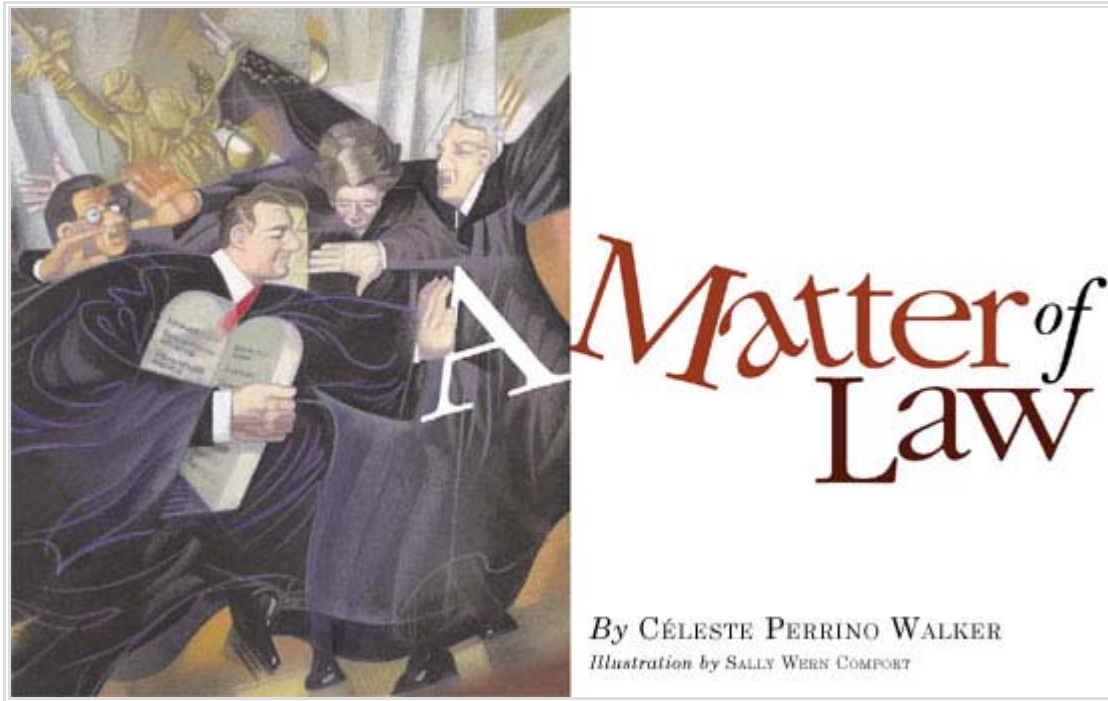
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JANUARY / FEBRUARY 2007

Matter Of Law

When Roy Moore Ran For Chief Justice Of Alabama, He Promised Voters That If He Was Elected He Would Display The Ten Commandments As His Pledge To Restore The Moral Foundation Of The Law. And So He Did. Without Letting Any Of His Other Eight Justices Know,



When Roy Moore ran for chief justice of Alabama, he promised voters that if he was elected he would display the Ten Commandments as his pledge to restore the moral foundation of the law. And so he did. Without letting any of his other eight justices know, Moore hired a company to sneak a 5,280-pound granite monument of the Ten Commandments into the rotunda of the Alabama Judicial Building.

Roy's Rock, as the monument has come to be called, is not Moore's first attempt to display the Ten Commandments in a public building. In the mid-1990s he burned the commandments onto rosewood tablets he'd made, and hung them up in his courtroom in Etowah County, northeast of Birmingham, where he was a circuit judge. The resulting American Civil Liberties Union (ACLU) lawsuit catapulted him into instant celebrity status across the nation as he defied a court ruling that ordered him to remove the tablets from the courtroom.

Between then and now Moore has ridden the tent revival circuit, during which he has been cheered on by admiring crowds who applaud his stand. Capitalizing on his notoriety, he proclaimed himself the "Ten Commandments judge" on billboards and TV ads during his run for the state supreme court in 2000.

That brings us to the present: an encounter that became a tooth-and-nail, knock-down-drag-out fight to keep Moore's Ten Commandments monument in the rotunda of the Alabama Judicial Building, an indisputably public place. Although a federal court ruled in November 2002 that Moore's display was unconstitutional because it violated the establishment clause of the First Amendment, a decision that was affirmed by the U.S. Eleventh Circuit Court of Appeals, Moore again quickly became the center of media attention by refusing to obey the court's order for the monument's removal. People traveled from great distances to rally around him, and his story was avidly followed across the nation. But what exactly was his cause? Moses himself couldn't have fought more tenaciously for the fate of the original Ten Commandments.

"This controversy has never been about the Ten Commandments,' observes Americans United [for Separation of Church and State] legal director Ayesha Khan. 'It's about maintaining a court system that treats all Americans fairly, regardless of their religious beliefs. Judges have no right to impose their personal religious beliefs on others through official action.'"¹

In his own defense Moore says he is fighting for the state to acknowledge God. "I stand before the Court of the Judiciary because I've done my oath. I've kept my oath. I have acknowledged God as the moral foundation of our law,"² Moore told his supporters. It seems rather strange for Judge Moore to lead the legal charge to acknowledge God as the moral foundation of the law while blatantly disregarding that same law. As Richard Cohen, vice president and general counsel of the Southern Poverty Law Center, has observed, you can't be a judge and defy a court.³ Moreover, you shouldn't be a Christian judge and defy a court.

Allen Brill, an ordained Lutheran minister and member of the South Carolina Bar, who founded The Right Christians,⁴ wonders which Ten Commandments everyone is fussing about. "One thing I'd like to get straight before the next Judge Roy pops up is which Ten Commandments are we talking about?"⁵ Brill goes on to expound on the variations of the Ten Commandments espoused by different faiths. Says Brill, "The difficulty in getting even all Christians to agree on what a Ten Commandments monument should look like is reason enough to take the issue off the table."⁶

The Ten Commandments in question appear in Exodus 20:1-17. While Catholics, Protestants, and Jews all accept the same text, they also abbreviate and interpret them differently. This means that to accept one rendition and engrave it onto a monument inevitably gives endorsement of one tradition, or faith, over another.

Steven Lubet, professor of law at Northwestern University, put it succinctly back in 1999 when Judge Moore was still embroiled in his fight to keep the Ten Commandments on his courtroom wall. "The framers of our Constitution were deeply concerned about the perils of religious conflict. They wisely recognized that entanglement of religion and government could only lead to heightened strife, should the followers of different faiths contend with each other for official government endorsement.

"The framers agreed, therefore, that there should be 'no law respecting an establishment of religion.' Their goal was not to suppress religion, but rather to free it from the temptations of secular power. Since there can be no law respecting an establishment of religion, no group can attempt to dominate another, and no sect need fear official domination. There cannot, and should not, be any official catechism, enshrining the tenets (or commandments) of one faith community to the derogation of another.

"The framers' solution was both judicious and prescient. Even as simple an act as displaying the Ten Commandments on a courtroom wall turns out to be freighted with contentious theological significance, and therefore with the potential for exclusion, insult and distress."⁷

This, then, is what the "fuss" is all about. It is not, as Judge Moore would like us to believe, a question of whether or not the state can acknowledge God, but a question of promotion of religion—moreover, a particular religious tradition—by a government official in the capacity of his duty, and it violates the establishment clause of the Constitution of the United States.

Government officials functioning in the capacity of their duty do not have the luxury of publicly embracing their religious beliefs. A Christian of another faith, or a Jew, might well compare their own interpretation of the Ten Commandments with the one on the monument before deciding whether or not to applaud. But a non-Christian could perceive the monument as a threat or an insult altogether and wonder just how impartial a judge can be who places his religion out on display. Judge Moore did it because he could. He told the *Los Angeles Times*, "I'm the highest legal authority in the state, and I wanted it there."⁸

America is a land of diverse religions, and while a great many endorse a moral code, it may not be encompassed by the particular set of Ten Commandments chosen by any one judge, or president, or teacher, or postal employee of the month. Religion is not one-size-fits-all. Rev. Barry W. Lynn, executive director of Americans United for Separation of Church and State (which cosponsored the litigation against Moore) and a United Church of Christ minister, says, "Many Americans revere this moral code. However, it is not the job of government to single out one religious code and hold it up as the state's favorite. Promoting the Ten Commandments is a task for our houses of worship, not government officials."⁹

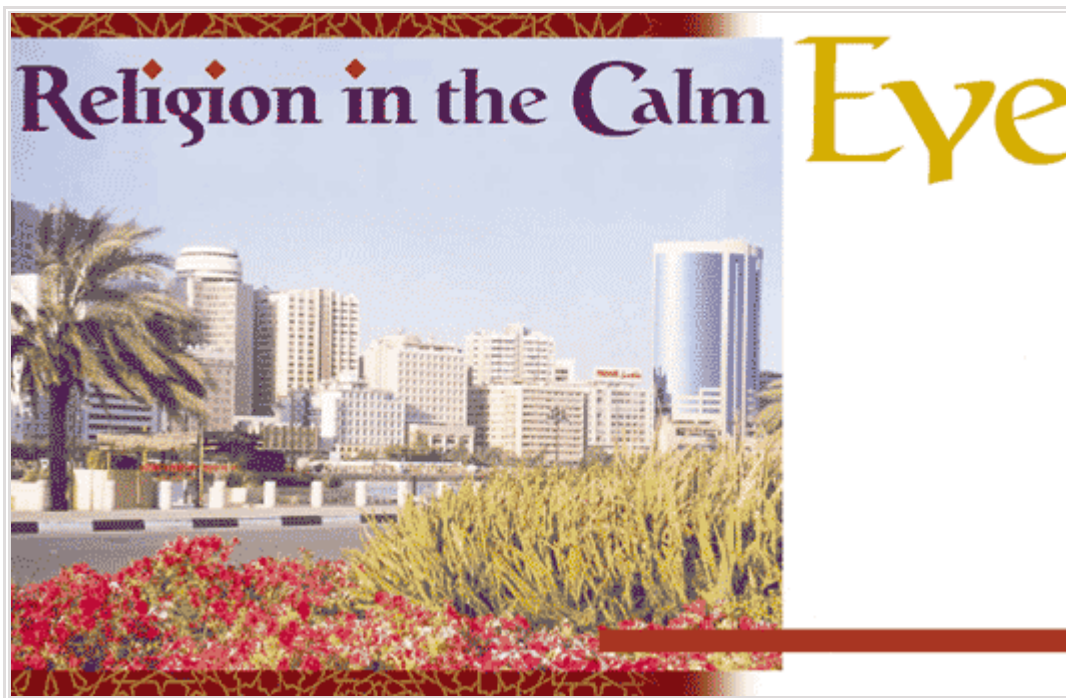
The issues raised by this case are still percolating. Roy's Rock isn't the only Ten Commandments monument in the nation. There are quite a number of others, and it's only a matter of time before someone questions their presence in a public place. It's only a matter of time before the Supreme Court takes the issue in hand.

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Religion In The Calm Eye

In The Middle East The Freedom To Practice Various Faiths Is Something Rare; Usually Subject To The Whims Of Rulers And Clerics. But We Are In An Era Of Change.

BY: SCOTT SUTTON



In the Middle East the freedom to practice various faiths is something rare; usually subject to the whims of rulers and clerics. But we are in an era of change.

The government of Dubai has encouraged local Christian churches to grow, the Saudi government has dismissed anti-western Muslim clergy, and Iraqi Christians sense hope even while fretting about the future. u In a more or less calm eye of the Middle Eastern desert storms, the United Arab Emirates is a land of relative openness. The desire to be an open international center of finance, business and trade partly explains why the sheiks here are so tolerant of religion. Dubai, cosmopolitan and liberal, is probably the best place to live in this part of the world in terms of being free to practice one's faith. u In fact, some extraordinary things have been happening. One of the dailies, the Gulf News, reported last year that Easter "was celebrated with religious fervor and traditional gaiety among expatriate Christians in the capital." While Christians openly attended worship services in churches, supermarkets reported strong sales of Easter eggs and chocolate bunnies.

And Emirates Airline, the state airline, brought European tourists to Dubai on Easter-special sightseeing packages. Dubai must be one of the few cities in the Islamic world where Christmas is so open, albeit often for financial reasons. Business owners enjoy the holiday sales. But that aside, it speaks well of Dubai that here schoolchildren may gather and sing Christmas carols in the shopping centers while Santa hands out gifts. An extraordinary event in the Middle East was an April 2, 2003, Christian prayer and healing "festival" held at the Dubai Handicapped Club. Standing in front of 100 victims of various physical disabilities, Rev. Dr. Lee Jae-Rock—a pastor of the Manmin Joong-Ang Church in Seoul, Korea—cried, "God can heal your every disease if you will only believe in Him!" As Russian and Arabic television crews recorded the service, Dr. Jamal Wasef, an Egyptian physician and Christian, translated the Korean's words into Arabic for the audience. Lee offered a short sermon and reports of previous faith-healing meetings, with video clips shown as evidence of the Lord's work.

As Rev. Lee prayed for those who were disabled and sick, several healings took place, and were verified by doctors present for just that reason. One teenager, who was deaf and could not speak, began chanting "Hallelujah" and "Amen." A local Arab woman in an abaya

stood, threw down her crutches, and began walking.

Regardless of what one might think of the validity of the healing, the amazing aspect of the prayer meeting was that a representative of the government organization, Hamad Bil Jafla, arranged for Rev. Lee to come to the club.

Johnny Kim, director of Manmin World Mission, spoke after the service about the Dubai Evangelical Church Center, which began in 1998. Kim reported that once it goes into high gear, the center will "be a Christian oasis at a major crossroads in the Middle East . . . the aim is to build and manage a multiuser facility for worship and ministry, a church home for various Dubai-based ministries."

The sheiks are helping the cause of religious tolerance. In 2001 the ruling family of Dubai granted land to several churches: four Protestant, one Catholic, and a Greek Orthodox church. The emirates (states) of Abu Dhabi and Sharjah, together with Dubai, contain more than 20 churches built on government-granted land. There are also Catholic primary and secondary schools. While the government does not support any Christian denominations, congregations are allowed to raise money, receive funding from overseas, and advertise church functions in the press.

One recipient of a generous land grant is the United Christian Church of Dubai, an interdenominational group of active Christians, that boasts more than 600 members from 40 nations. It is inspiring to sit in this congregation—a mini United Nations, whose members raise their voices to the Lord each week. After two morning English services, there is another in Arabic; at the same time down the hall, 70 Chinese Christians hold their service. As a whole, the people of UCCD are in the process of helping to build the interdenominational religious center that Kim had spoken of at the healing. Says Pastor Daniel Splett, "The vision is for this center to be an evangelical lighthouse in the Middle East, not only for our churches, but also for many other evangelical churches and also for missionaries, full-time workers, pastors, tentmakers, etc., to come to Dubai, where it is a lot freer."

Indeed, a recent report by the Assist News Service says, "God is moving among the foreign nationals living in Dubai, the second largest of the United Arab Emirates and a thriving center of commerce and tourism in the region." The report also praised the nearly 100 junior and senior high school students who attend a weekly student worship service, and the summertime youth camps that are well attended.

And evangelicals aren't the only movers and shakers. Daniel Khokar, an active Pakistani Seventh-day Adventist, organized a large-scale prayer meeting to welcome newly arrived Pastor Victor Harewood in November 2002. Under the title "A Gathering for Jesus," Daniel brought together more than 300 Christian brothers from a dozen denominations. After sending special invitations to various Christian friends in churches across the country, he received hundreds of dollars to help pay for the event. In attendance were preachers and choirs from the Assembly of God, Dubai Pentecostal, and several other churches, including the Adventists themselves. They came from the seven emirates to greet Pastor Harewood in brotherly love and sing praises to the Lord.

Outside the UAE things are grimmer in the tolerance department, nowhere more so than in Saudi Arabia, where public practice of Christianity is banned and even private worship is restricted. Non-Muslims found with as much as a religious pamphlet in their possession may be arrested, lashed, and deported. No Christian symbols are permitted to be worn, which means the Filipino housemaids can forget hanging a simple necklace sporting a cross around their necks, as they may do in Dubai. Interestingly, however, the government has now clamped down on anti-West clerics, dismissing Islamic preachers who were known for their virulent anti-American Friday sermons. According to the minister of Islamic Affairs and Guidance, Saleh Al Sheikh, "A preacher has no right to convey his own interpretation" of religion or politics to the people (Gulf News, Ap. 17, 2003).

In nearby war-torn Iraq, Christians remain apprehensive about their future. Once the bombing campaign began in earnest, news stopped coming out of Baghdad. Homer Trecartin, secretary-treasurer for the Middle East Union Mission of Seventh-day Adventists, along with Adventist members worldwide, prayed for the safety of the Baghdad church. Finally, on April 23, 2003, Trecartin received a call from Basim Fargo, secretary-treasurer in Iraq, who reported that "all the church members and their properties were fine." Miraculously, services at the Baghdad church were held every week except for one during the war. Now a new fear has emerged: Will Christians in Iraq be safe under a new government? Will their rights be protected? Under the autocratic rule of Saddam Hussein, Christians were given a measure of autonomy and the freedom to worship in what was a secular state. Saddam was busy suppressing the Shiites—the majority—and the Kurds, often ignoring Christians, who made up a nonthreatening 1.5 percent of the population. Some Christians also worry that their religion might make them seem pro-Western. According to international reports, a number of Iraqi believers fled to Lebanon, where they are in prison as illegal aliens. Now there is somewhat of a power struggle for a postwar Iraq, and with Shiite clergy are calling for an Islamic state, anything could happen.

How does all this tie in to religious freedom in the United States of America? While American eyes have been glued to CNN and FOX news coverage of the Gulf, American expatriates in Dubai, along with hordes of Britons, Europeans, Russians, and all the rest in the Dubai melting pot, have been watching events unfold in the U.S.A. They see anti-war protesters threatened and called unpatriotic, a lack of questioning of administration policy on the part of the media, and the U.S.A. Patriot Act, which was rushed through the House and Senate without much debate. Americans teaching at Zayed University in Dubai, for example, have concerns that the Patriot Act may violate several constitutional amendments: the first, fourth, fifth, sixth and eighth.

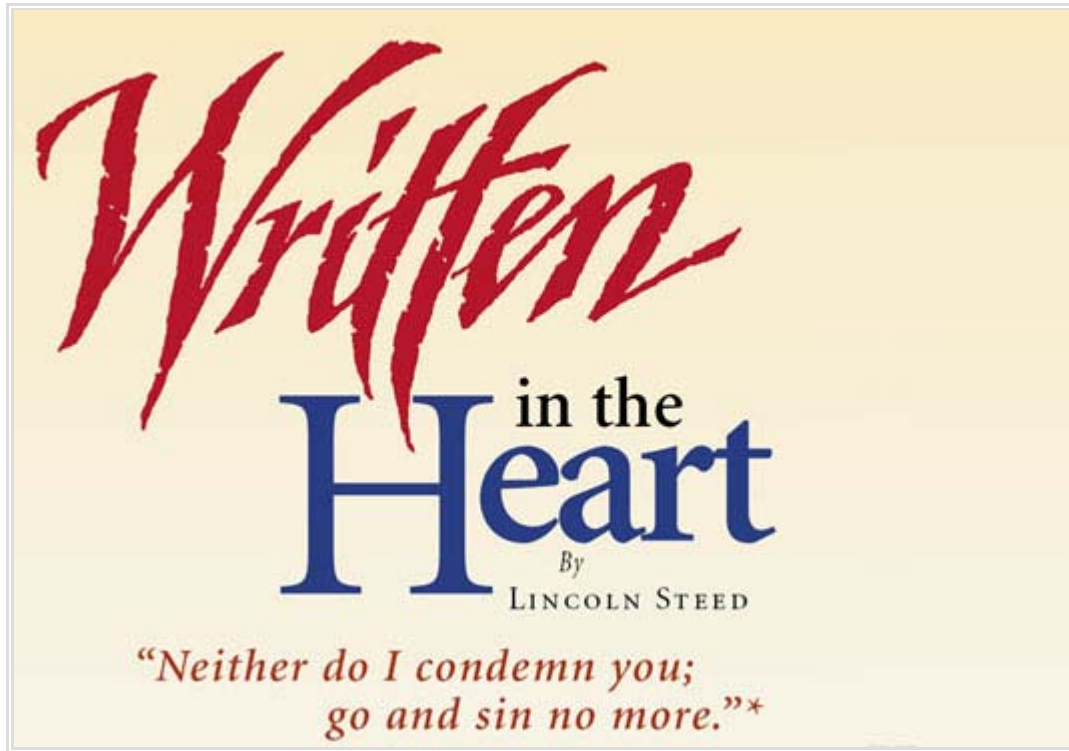
When I published an opinion piece in the Omaha World-Herald (2/24/03) decrying America's failure to heed European allies—a piece praised by U.S. senator Chuck Hagel—an army of e-mailers dismissed the need of allies or of a congressional approval to go to war. Perhaps they should have listened intently to Congressman Dennis Kucinich (D.Ohio). He said, "There needs to be a greater awareness among the members of the administration of the impact of their statements and their actions on the people of this country and the people of the world." The world can change for the better. And there are signs of religious freedom even in this complicated area. We need to work with and encourage those sometimes-tentative steps toward full religious liberty.

Scott Sutton, a native of Omaha, Nebraska, and a freelance writer, teaches English as a second language to young Arab women at a university in Dubai, United Arab Emirates.

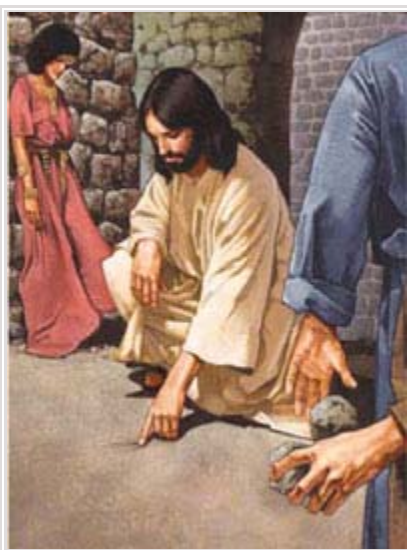
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Written In The Heart

Those Who Study Human Behavior As A Science Often Comment On The Destructive Power Of Guilt. Unresolved Guilt Can Destroy Self-respect And Create Dangerous Pathologies.



Those who study human behavior as a science often comment on the destructive power of guilt. Unresolved guilt can destroy self-respect and create dangerous pathologies.



A group of moral vigilantes interrupted Jesus as He was teaching in the Temple. They threw their prey in front of Him and gathered around with clamors for action. "This woman," they said, identifying the no-doubt half-naked, bruised, and terrified creature, "was caught in adultery, in the very act." They appealed to the conventions of Moses that specified stoning, and asked Jesus what they should do. They intended to accuse His expected mercy as lawbreaking.

Jesus made a point of ignoring them, writing with His finger on the ground. What was He writing? It has been suggested that He wrote down the sins of some of the accusers—it might better explain their reaction a moment later when He said, "He who is without sin among you, let him throw a stone at her first." "Convinced by their conscience," the accusers drifted away.

Jesus was the visible incarnation of the same God who had given Moses the Ten Commandments on tables of stone. The same God who had burned the words into stone by His touch now traced words into the dust. Words that simultaneously held men accountable and yet argued for mercy. The unmerciful skulked away, leaving the woman cringing before the Teacher.

"Woman," He asked at length, "where are those accusers of yours? Has no one condemned you?" Doubtless a lot of crude, cruel accusations had been made. Threats thrown out, backed up by samples of physical violence. But in the quiet after the mob and looking at the hand of God tracing deeply into the dust, the woman was bold enough to say, "No one, Lord."

"Neither do I condemn you: go and sin no more," Divinity replied.

Even today we can be tempted to think that it is enough to invoke the law of God—the Ten on Stone—as a shorthand solution to the many moral ills of society. We must be sure that we are not invoking them the way the mob did the civil statutes of Moses, in order to condemn others publicly. It is a fearful thing to play God to our fellows.

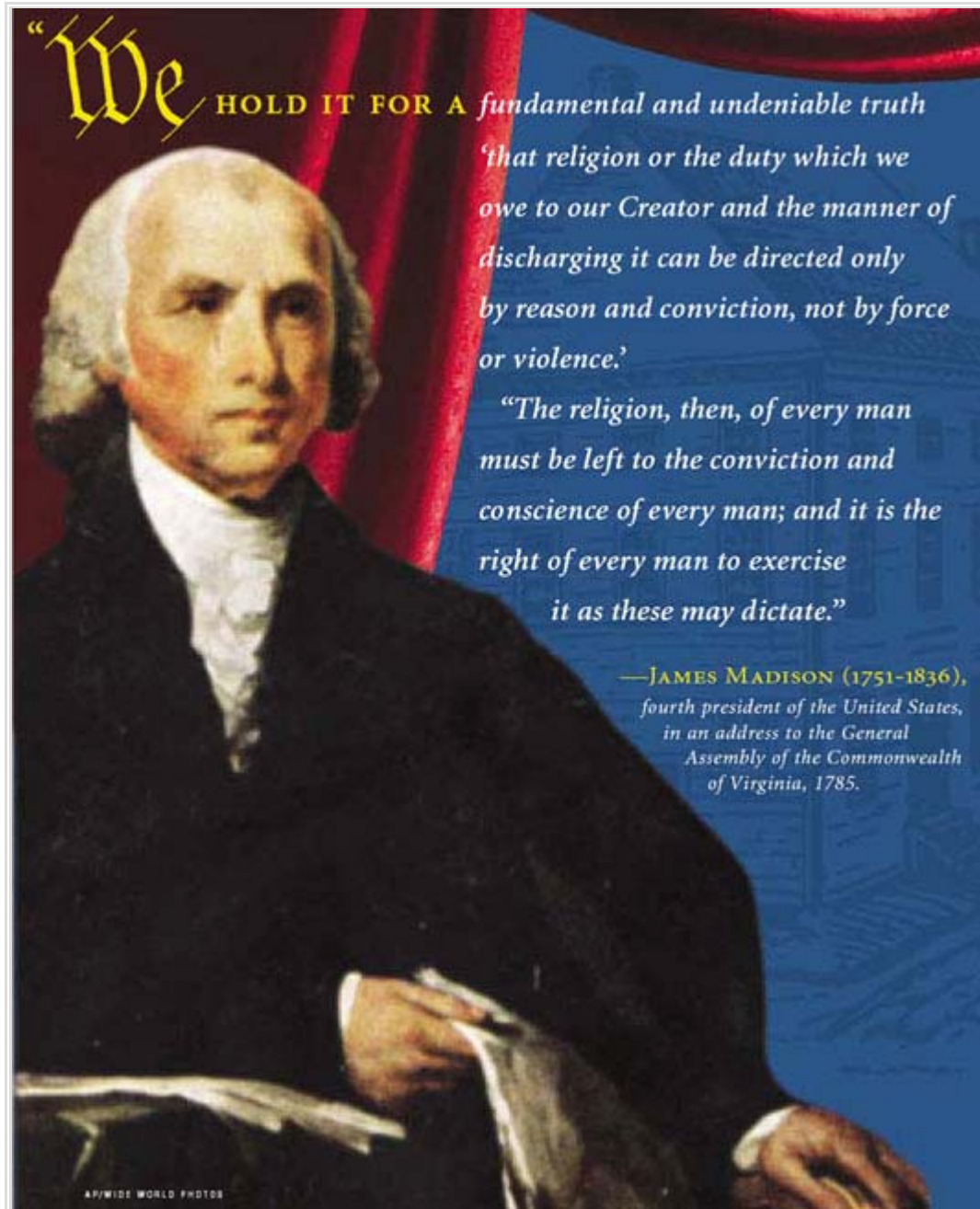
God never wanted the tables of stone to be an icon in themselves. Faced with the open denial of faith around the golden calf, Moses actually smashed the stone tablets. The replacement tablets were then kept out of sight within the ark in the Temple. Then, as now, the goal of God was to write the principles of those laws in the heart.

Jesus said at the beginning of His ministry that He had come to the world, not to condemn it, but to save it (John 3:17). What a liberating concept! A nonjudgmental God willing to trace His redeeming purposes through the dust of our lives. "Go and sin no more" is as much a solution as a directive. With it the practicalities of the law meet the condescension of the Creator who first formed man by hand out of the dust of the earth.

**Text quoted from John 8:11, New King James Version. Other texts are from the full NKJV story in verses 3-11. Texts credited to NKJV are from the New King James Version. Copyright*

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James Madison



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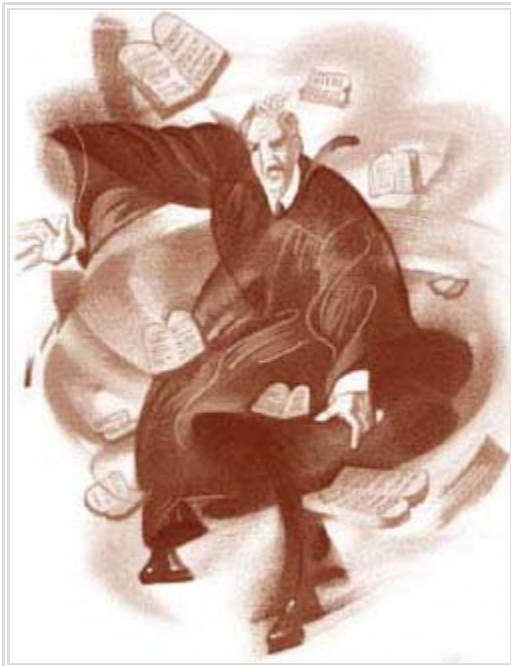
All About Character

In 1960 Playwrights Jerome Lawrence And Robert E. Lee immortalized The Scopes "Monkey Trial" In Their Classic Drama *Inherit The Wind*. The Play Told Of The Legal Battle That Took Place In Dayton, Tennessee, Over The Teaching Of Evolution In Public Schools.

BY: JOHN W. WHITEHEAD



In 1960 playwrights Jerome Lawrence and Robert E. Lee immortalized the Scopes "monkey trial" in their classic drama *Inherit the Wind*. The play told of the legal battle that took place in Dayton, Tennessee, over the teaching of evolution in public schools.



Nearly 80 years after Clarence Darrow put fundamentalist religion on the witness stand in what one writer described as a "media circus meets religious revival," we are once again witnessing religion on trial. However, this time the furor is over Judge Roy Moore's allegiance to a 5,280-pound Ten Commandments monument in the lobby of the Alabama State Judicial Building, whose presence the federal courts have ruled to be in violation of the United States Constitution.

Moore's supporters, many of whom have made a career of mixing religion and politics, include such personalities as Alan Keyes and the Reverend Jerry Falwell. With Montgomery, Alabama, as their backdrop, Moore and his followers have been borrowing heavily from the rhetoric of the civil rights movement. With choruses of "We Shall Overcome" wafting through the air, they have drawn some dubious parallels between their attempts to entrench the Ten Commandments in the state courthouse and the struggle by African-Americans for equal rights.

I say dubious because this struggle over Moore's Ten Commandments monument has little to do with civil rights or religious freedom. For much of the past century, African-Americans endured physical hardships, discrimination, and even death. However, making this Ten Commandments debacle the poster child for the discrimination endured by Christians today—which is what Moore and his supporters have done—is to minimize greatly the horrific torture many Christians suffer worldwide in order to live out their sincere religious beliefs.

Furthermore, the ramifications of this politically charged issue over a granite monument could have some lasting negative effects on the rights of religious people to sincerely express their religious beliefs in other forums.

If Moore continues to push this particular issue, as he seems inclined to do, we could very well see all Ten Commandments plaques and monuments removed from courthouses and public places. In fact, his ill-chosen battle could make it that much harder for the public school teacher to reference religion in the classroom or the high school valedictorian to reference God in a graduation speech.

If Moore continues to insist that the Ten Commandments belong in the courthouse because this is a "Christian nation," we could very well see a backlash against all things Christian. As one person asked me recently: "Why do you Christians have to shove your religion down our throats?" That, in effect, is how many people view Judge Moore's actions—as another attempt by Christians to foist their beliefs on the rest of the country.

Judge Moore may believe that his monument will help turn this country around, but I think it will take a lot more than a piece of granite.

What concerns me most, however, is the message being sent by these Ten Commandments "activists" about the character of Christianity. If this is really about standing up for one's faith, even to the point of peaceful resistance, then why aren't more Christians protesting in front of abortion clinics or pornographic movie houses? If this is really about doing God's work here on earth, then why aren't these Christians, as Christ admonished, feeding the poor?

Judge Moore may believe that his monument will help turn this country around, but I think it will take a lot more than a piece of granite. What good is a monument to the Ten Commandments if no one takes the time to live by them? When Christ was asked to name the greatest commandment, He responded, "Love the Lord your God. And a second is like it: Love your neighbor" (see Matthew 22:37-40). In other words, one loves God by helping those in need.

The circus surrounding Moore's monument has little to do with loving one's neighbor. When this spectacle becomes yesterday's news, what will have been the impact on people's lives? No unborn babies were saved. No poor people were fed. No one oppressed for their religious beliefs was helped. And no one was shown love and compassion.

This isn't a political issue involving the left and the right wing. And what's wrong with our country isn't the absence of Ten Commandments monuments. Moore's followers may sincerely believe that a monument will right everything that's wrong. People on both sides of this issue may insist that it's all about the law, but it's really about people in our society who are adrift and without hope.

People need a hero. And there are very few heroes anymore who are taking strong moral stands. Right now the closest thing to a hero many Christians can find is Judge Moore, who at least is taking a stand. But his solution to our problems will not make America any more moral or religious. And Christians are in a sad state if they think it will.

Do you really think that the God who created the universe would choose to fight over a little monument in Alabama? Can we really believe that God, the great Creator, wants us to show love and compassion by fighting over a two-and-a-half-ton piece of granite?

Judge Moore is no Moses, leading his followers to the Promised Land. And Christianity, as it is being practiced today, is not the fix for what's wrong with America. Thus, it turns out that this debate is really not about what's wrong with America; it's about what's wrong with Christianity.

As Martin Luther King, Jr., who marched into Montgomery under the banner of civil rights, remarked, "the judgment of God is upon the church as never before. If today's church does not recapture the sacrificial spirit of the early church, it will lose its authenticity, forfeit the loyalty of millions, and be dismissed as an irrelevant social club with no meaning for the twentieth century."

If Christians really want to have a positive impact on the world around them, let them return to their communities and tend to the sick, feed the poor, and stand up for the weak and the defenseless. Then maybe there will be no need for monuments.

Constitutional attorney and author John W. Whitehead is founder and president of the Rutherford Institute in Charlottesville, Virginia.

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Civil Religion & America's Inclusive Faith

Most Presidents In American History Have Integrated Religion Into Their Political Speeches In What Scholars Have Dubbed Civil Religion. This Has Especially Been The Case In Wartime, As War Seems To Inspire In People A Need To Know That God Is With Us.

BY: BARRY HANKINS



Most presidents in American history have integrated religion into their political speeches in what scholars have dubbed civil religion. This has especially been the case in wartime, as war seems to inspire in people a need to know that God is with us. One of the president's roles is to assure the American people that this is so. President George W. Bush has been faced with a wartime situation that is unique in American history in at least two ways. First, the nation is not at war with another country. Rather, the war is against a network of terrorists scattered across the globe. Members of this network seemingly have but one thing in common—their hatred for all that America stands for. Second, for the first time in American history, although not the first time in Western civilization's history, the enemy is fighting in the name of religion. The terrorists of al-Qaeda and other organizations believe Allah has called them to holy war against the United States. This second feature has shaped Bush's civil religion. Civil Religion is a concept scholars employ to describe the use of religion for political ends. Simply put, it is the mixing of religion and patriotism until it is nearly impossible to tell where one ends and the other begins.¹ This most often occurs when politicians talk about religion or when preachers talk about national affairs.

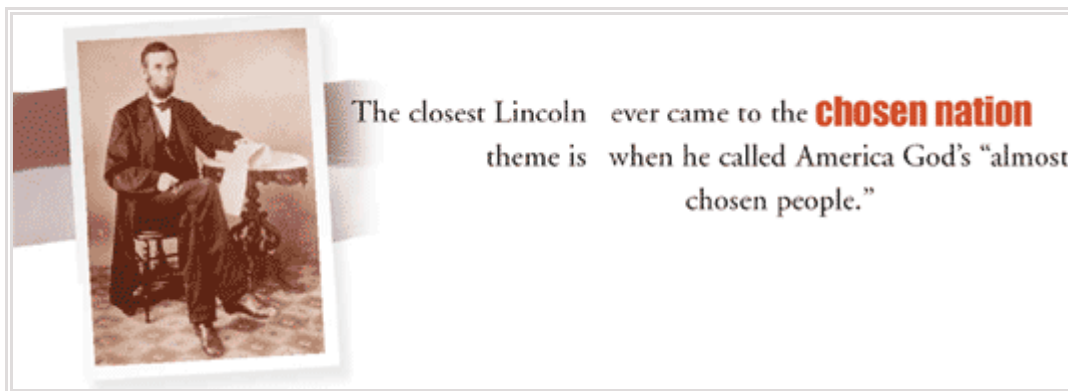
For example, when politicians mix faith in God with faith in the nation, or when they describe America as if it were itself a transcendent entity, they are engaging in civil religion. Conversely, when preachers mix together comments about personal righteousness and national righteousness, or when they blend Christian symbols such as the cross with national symbols like the flag, they are engaging in civil religion. A second and slightly more specific definition, therefore, holds that civil religion is the use of consensus religious concepts and symbols by the state for the state's own political purposes.

Whatever definition one uses or whichever form civil religion takes, it must be an inclusive faith. In a pluralistic society like the United States, civil religion will fail if it excludes too many people. Until the late 19th century American civil religion was largely evangelical Protestantism, because the majority of Americans identified, at least loosely, with that form of the Christian faith. The 20th century, however, saw civil religion broaden to become a generalized Protestantism; then a generalized Christianity that would include Roman Catholics; then an even broader Judeo-Christian civil religion to include Jews; then, finally, a generalized religion that speaks of a God or providence in terms vague enough to include all but atheists.

As American civil religion has evolved it has utilized five themes fairly consistently. First is the chosen nation theme that views America as divinely ordained for some grand historical purpose. Second is civic millennialism, which is the sense that the American nation is an

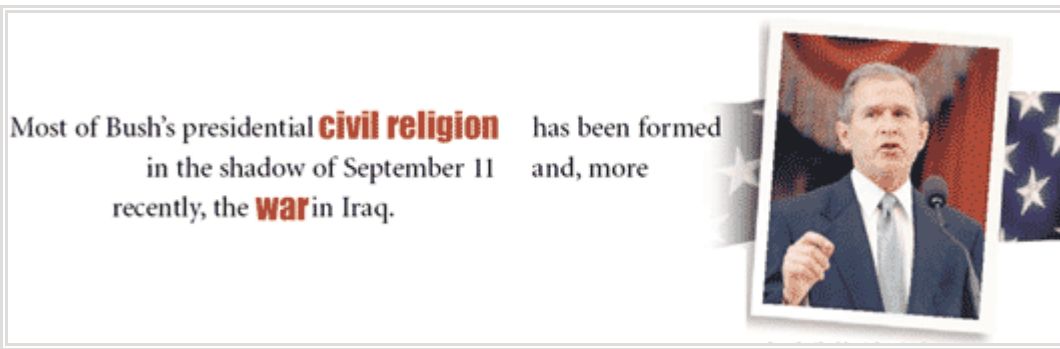
agent for bringing in the millennial kingdom. American manifest destiny in the 19th century, for example, taught that the nation must expand, first across the continent, then across the seas, in order for God to spread the Christian faith and democratic political institutions. This was part of a providential design for ushering in the kingdom of God. Third, there must be some form of religious consensus or common thread that binds people together religiously. As mentioned above, American civil religion has become more vague and inclusive as the nation has become more pluralistic. The civil religion tent must become wider and wider to ensure that few are left out. Fourth, there is a fusion of biblical values—such as faith, justice, and righteousness—with a deistic notion of God that is very general and includes no mention of Christ. Fifth, there has been in American civil religion what can be called historical authentication. Particular national events seem to prove that God is using the nation for His purposes. The American Revolution, the Civil War, American expansion, and, in the 20th century, American victory over fascism in World War II and over Communism in the cold war, all seem to validate that God has specially chosen America.²

While presidents utilize civil religion to varying degrees, two examples can be used to illustrate two types of civil religion. The first type is prophetic, and the best example is Abraham Lincoln. In prophetic civil religion biblical standards of justice and righteousness are transcendent, and the civil religion, spokesperson calls the nation to live up to these standards. Lincoln, more than any president in history, used this type of civil religion during the dark days of the Civil War. Rather than emphasizing the ways in which God might be on the side of the Union, he placed God above the nation, standing in judgment for national sins. In 1862 when a Northern minister suggested that God favored the Union cause, Lincoln responded, "I am not at all concerned about that, for I know that the Lord is always on the side of the right. But it is my constant anxiety and prayer that I and the nation should be on the Lord's side."³ On March 4, 1865, in his second inaugural address, given as the war was nearing its end, he said: "Both [Northerner and Southerner] read the same Bible and pray to the same God, and each invokes His aid against the other. It may seem strange that any men should dare to ask a just God's assistance in wringing their bread from the sweat of other men's faces, but let us judge not, that we be not judged. The prayers of both could not be answered; that of neither has been answered fully. The Almighty has His own purposes."⁴ Such a statement was a clear rebuke to Northerners and Southerners who were certain that God was on their side.



Later, in that same speech, Lincoln said, "Fondly do we hope, fervently do we pray, that this mighty scourge of war may speedily pass away. Yet, if God wills that it continue until all the wealth piled by the bondman's two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash shall be paid by another drawn with the sword, as was said three thousand years ago, so still it must be said 'the judgments of the Lord are true and righteous altogether.'"⁵ Note here the sense that the war is God's judgment for the sin of slavery. In none of these quotes is there any allusion to God siding with America. Rather, God's standards come first, and the nation is measured against them. The closest Lincoln ever came to the chosen nation theme is when he called America God's "almost chosen people."⁶ While he clearly believed God had chosen America for a divine purpose, for him this meant that the nation had much to live up to, not that God favored America.

The second type of civil religion is priestly, and it reverses the God-and-country relationship. The nation itself becomes transcendent and is glorified as being very nearly worthy of worship and adoration in its own right. God prefers and blesses the nation above all others. The politician or preacher using this type of civil religion assures the American people that we are special and that God favors our national agenda. Rather than a God of justice and judgment, the god of priestly civil religion becomes, in the words of historian Martin Marty, a "harmless little deity" who has nothing to do with the Bible. He is "understandable and manageable—an American jolly good fellow." Sociologist Donald Kraybill has said that the God of priestly American civil religion is like a tribal deity who is very slow to anger, an all-round nice guy who is especially fond of American sports like baseball and football. The 20th century was replete with priestly civil religion, especially from its presidents, but none was more adept at using it than Ronald Reagan.



In May 1987 Reagan eulogized three dozen Navy men killed in an Iraqi attack on the U.S.S. Stark with these words: "Let us remember. . . to understand that these men made themselves immortal by dying for something immortal, that theirs is the best to be asked of any life—a sharing of the human heart, a sharing in the infinite. In giving themselves for others, they made themselves special, not just to us but to their God. 'Greater love than this has no man than to lay down his life for his friends.' And because God is love, we know He was there with them when they died and that He is with them still. We know they live again, not just in our hearts but in His arms. And we know they've gone before to prepare a way for us. So, today we remember them in sorrow and in love. We say goodbye. And as we submit to the will of Him who made us, we pray together the words of scripture: 'Lord, now let Thy servants go in peace, Thy word has been fulfilled.'"⁷

In this eulogy the nation actually becomes immortal, and dying for the nation is sufficient to send one to God. These two concepts have nothing whatsoever to do with biblical Christianity, but instead are part of priestly civil religion's exaltation of the nation to transcendent status. Moreover, they are combined with the biblical notion that there is no greater love than to lay down one's life for another.

Reagan had also carried out the priestly function of civil religion the year before when the space shuttle Challenger exploded on takeoff, killing its seven crew members. In remembering the astronauts, Reagan, in the view of two scholars of civil religion, functioned as both pastor and priest. As the former, he comforted the grieving families and fellow Americans; as the latter, he consigned the souls of the deceased to heaven, perhaps civil religion's heaven. He said, "We can find consolation only in faith, for we know in our hearts that you who flew so high and so proud now make your home beyond the stars, safe in God's promise of eternal life."⁸ As would be the case the next year with the Stark, dying for America was enough to reach heaven. The faith of the seven Challenger crew members ranged from evangelical and mainline Protestant, to Catholic, to Jew, to Buddhist, and to nothing in particular, but dying for a transcendent America was enough to gain entrance into God's presence.

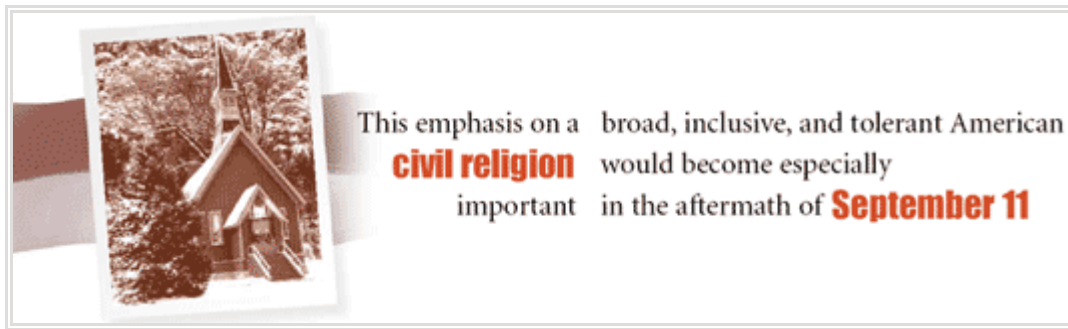
Where does George W. Bush fit in the context of presidential civil religion? While the answer to this question is subject to interpretation, there can be little doubt about Bush's personal faith. Raised in the mainline Presbyterian and Episcopal churches, he became a Methodist at the age of 35, largely because of Laura. Until the mid-1980s he was by his own estimation a nominal Christian at best and living a fairly fast and loose life. In 1985 he had a significant conversation with Billy Graham that set him on the road to an evangelical conversion. The next year he quit smoking and drinking, and by the end of the decade, as he approached his 40th birthday, he had been transformed into a born-again Christian. He and some of his buddies changed their Monday Night Football gathering into a Monday night Bible study, he began attending church more regularly, and, perhaps most significantly, he made Bible study and prayer a daily part of his life.

Bush's study of Scripture may be the reason that he has avoided some of the most theologically problematic examples of priestly civil religion that marked the Reagan presidency. Bush too has dealt with a space shuttle tragedy, and, quite naturally, used religious language to mourn the victims. When the Columbia exploded over Texas on February 1, 2003, Bush addressed the nation, saying in part, "The same Creator who names the stars also knows the names of the seven souls we mourn today. The crew of the shuttle Columbia did not return safely to Earth; yet we can pray that all are safely home."⁹ Whereas Reagan on at least two occasions suggested that dying for America was sufficient for entrance into heaven, Bush was willing only to pray and hope that the Challenger astronauts were in God's care. His words seemed to have been chosen carefully to avoid unbiblical notions of national sacrifice.

Most of Bush's presidential civil religion has been formed in the shadow of September 11 and, more recently, the war in Iraq. In the eight months before September 11, 2001, however, many of his public statements on religion came as he pushed for federal funding of faith based organizations (FBOs). This was consistent with his tenure as governor, where more than any other state Texas took advantage of the charitable choice provision of the 1996 Welfare Reform Act. Charitable choice stipulates that when a state uses federal block-grant money to fund social services, it must allow FBOs to compete for the funds along with secular social service agencies. Under charitable choice FBOs no longer need to show that they are not "pervasively sectarian" in order to get government money. As president, Bush was determined to expand charitable choice so that pervasively sectarian FBOs and even churches that engage in social services will

be eligible for federal funds.

In his speech to the National Prayer Breakfast on February 1, 2001, Bush emphasized the role of faith in social service, saying, "Faith remains important to the compassion of our nation. Millions of Americans serve their neighbor because they love their God. Their lives are characterized by kindness and patience, and service to others."¹⁰ He then pitched federal funding of FBOs: "My administration will put the federal government squarely on the side of America's armies of compassion. Our plan will not favor religious institutions over nonreligious institutions. As president, I'm interested in what is constitutional, and I'm interested in what works." He followed this with a reference to discrimination: "The days of discriminating against religious institutions, simply because they are religious, must come to an end."¹¹ This was a reference to the notion that to exclude pervasively sectarian FBOs and churches from funding is to discriminate, but opponents of Bush's plan point out that FBOs do not want to be treated equally, as Bush implied, but want to retain their right to discriminate in hiring only those from their own theological traditions. This, of course, is necessary so that FBOs can retain their religious identity, but it is also an exemption from federal nondiscrimination regulations that all other social service agencies must follow.



Whatever one's view as to the constitutionality or wisdom of Bush's policies, the president was attempting to make a connection between government funding of FBOs and the best tradition of selfless social service, and he did so within the broad parameters of an inclusive and tolerant civil religion. In the paragraphs preceding his pitch for FBOs, he highlighted that the U.S. Constitution forbids a religious test for office and that the president "serves people of every faith, and serves some of no faith at all." He also said, "We do not impose any religion; we welcome all religions. We do not prescribe any prayer; we welcome all prayers. This is the tradition of our nation, and it will be the standard of my administration. We will respect every creed. We will honor the diversity of our country and the deep convictions of our people."¹² Even before September 11, therefore, Bush had set the tone for an inclusive and tolerant civil religion.

This emphasis on a broad, inclusive, and tolerant American civil religion would become especially important in the aftermath of September 11 when some highly visible religious figures such as Franklin Graham denounced Islam as a wicked religion, founded by a perverted prophet. Bush himself made one rhetorical gaffe five days after the September 11 attacks, when he told reporters, "This crusade, this war on terrorism, is going to take a while."¹³ Commentators from the Middle East were quick to seize on his use of the word "crusade," and to translate it literally as "war of the cross." While Americans have a short history and, therefore, a short historical memory, people from Muslim nations in the Middle East have a long history and long memories. Some of the anti-Western sentiment there stems from the Crusades of the Middle Ages, when Christian armies invaded Muslim lands in an attempt to retake the Holy Land. While for Americans this is past history, dead and gone, in a land in which territorial claims go back to the Old Testament, such historical events as the Crusades are much more at the forefront of peoples' minds. Any reference to them, even if unintended, conjures up notions of a West that is hostile to Muslim culture.

That error aside, Bush has worked diligently in his post September 11 speeches to emphasize the best that the Muslim religion has to offer. Indeed, it would be hard to find a more significant and diligent apologist for Islam than the president. Just six days after the September 11 attacks Bush started what would become a consistent theme of his civil religion. Speaking to the Islamic Center of Washington, D.C., he sought to separate terrorism from the Muslim faith. "The face of terror is not the true faith of Islam," he told his audience. "That's not what Islam is all about. Islam is peace. These terrorists don't represent peace. They represent evil and war."¹⁴ Three days after his unfortunate use of the term "crusade" he told President Sukarnoputri Megawati of Indonesia, "I've made it clear . . . ; that the war against terrorism is not a war against Muslims, nor is it a war against Arabs. It's a war against evil people who conduct crimes against innocent people."¹⁵

On at least 25 occasions from September 19, 2001, to December 5, 2002, Bush emphasized the point that America was fighting terrorism, not the Muslim faith. In some speeches he has portrayed Muslim terrorists as "traitors to their own faith, trying, in effect, to hijack Islam itself."¹⁶ He has also attempted to bring together Judaism, Christianity, and Islam by saying, "We see in Islam a religion that traces its origins back to God's call on Abraham. We share your belief in God's justice, and your insistence on man's moral responsibility." In an attempt to bring together Muslim and Western countries, he continued, "We thank the many Muslim nations who stand with us against terror. Nations that are often victims of terror themselves."¹⁷ In a frank acknowledgment of some anti-Muslim statements, and in an attempt to distance himself from the likes of Franklin Graham and a few other evangelicals, Bush told reporters

during a meeting with U.N. secretary-general Kofi Annan, "Some of the comments that have been uttered about Islam do not reflect the sentiments of my government or the sentiments of most Americans."¹⁸

Bush's kind words about the Muslim faith have come in the context of his continued emphasis on the tolerance and inclusivity of American civil religion. At the first National Prayer Breakfast following September 11 he said, "Every religion is welcomed in our country; all are practiced here." For Bush, however, tolerance does not mean the absence of religion. Instead, he has stressed how the events of September 11, 2001 have caused an upsurge in faith and prayer. "Our country has never had an official faith," he told the 2002 Prayer Breakfast. "Yet we have all been witnesses these past 21 weeks to the power of faith to see us through the hurt and loss that has come to our country." A few lines later he further intertwined faith and tolerance by saying, "Yet for millions of Americans, the practice of tolerance is a command of faith." He also acknowledged that people of no faith at all are often tolerant. "Respect for the dignity of others can be found outside of religion," he allowed, "just as intolerance is sometimes found within it."¹⁹ Moreover, in bringing tolerance and faith together with an increased emphasis on prayer, he said, "Since we met last year, millions of Americans have been led to prayer. . . . Many, including me, have been on bended knee. The prayers of this nation are a part of the good that has come from the evil of September 11th, more good than we could ever have predicted."²⁰

Bush has also incorporated the theme of judgment, usually reserved for prophetic civil religion. This theme, however, has almost always been used with reference to terrorists and rarely as a standard for America. On January 5, 2002, Bush told a crowd in Ontario, California, "The evil ones awakened a mighty giant. . . . We're taking action against evil people. . . . This is clearly a case of good versus evil, and make no mistake about it—good will prevail."²¹ While this stark division of good and evil is in marked contrast to Lincoln's refusal to identify whose side God was on, the situation is quite different. Lincoln was speaking of Americans and Christians on both sides of the Civil War. Bush was referring to non-Americans and non-Christians, whom he is convinced are not very good Muslims either. Bush spoke of Saddam Hussein's regime repeatedly as "evil at its heart," which is reminiscent of a host of holocaust scholars' references to an evil Adolf Hitler. Some historical realities lend themselves to a clear identification of evil. What is problematic is not the naming of evil when it is obvious, but in assuming that "we" are good. Bush has been fairly certain and, it would seem, non-controversial in his assumptions. "We can be confident in America's cause in the world. Our nation is dedicated to the equal and undeniable worth of every person," he has said. In his 2003 State of the Union Address he came as close as one can to making the nation itself the transcendent object of devotion and the embodiment of all that is good. "Americans are a resolute people who have risen to every test of our time," he said in reference to the American people. Then, with regard to the nation itself, he continued, "America is a strong nation, and honorable in the use of our strength. We exercise power without conquest, and we sacrifice for the liberty of strangers."²² While many around the world are convinced that America actually adheres to national interest more than eternal ideals, even Bush sometimes acknowledges, "We don't own the ideals of freedom and human dignity, and sometimes we haven't always lived up to them."²³

These references to tolerance, inclusivity, prayer, and judgment against the nation's enemies together make up a priestly, or perhaps pastoral, civil religion that soothes and comforts the American people in this post September 11 time of distress. The president, playing the role of civil religion priest and pastor, assures us that real evil is out there, but not in us.²⁴ While other presidents have been faced with war, threats of war, and even potential defeat, no president has constructed his civil religion in the face of enemies who cast their entire agenda in non-Christian yet religious terms. Bush's challenge has been to refute the religious claims of terrorists, remind Americans of their nation's best ideals, and at the same time point out that no one religion has a claim on America. Wartime is usually not an occasion for deep soul searching, and, with the exception of Lincoln, presidents rarely speak of God's judgment on America at any time, let alone when the nation is under attack. With the exception of gentle reminders that Americans should be tolerant, Bush has been soft on the judgment theme and has incorporated very little prophetic civil religion into speeches. Still, in a climate on which ill-chosen rhetoric might well have fueled notions of religious war and inflamed the public against Muslims, the president certainly could have done worse.

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¹For a good overview of the concept of civil religion as it relates to the US. presidency, see Richard V. Pierard and Robert D. Linder, *Civil Religion and the Presidency* (Grand Rapids: Academie Books, 1988), pp. 11-64.

²Ibid.

³Ibid.

⁵Ibid.

⁶Ibid.

⁷Ibid.

⁸Ibid.

⁹George W. Bush, address to the nation on the space shuttle Columbia tragedy, Feb. 1, 2003.

¹⁰George W. Bush, remarks to National Prayer Breakfast, Feb. 1, 2001

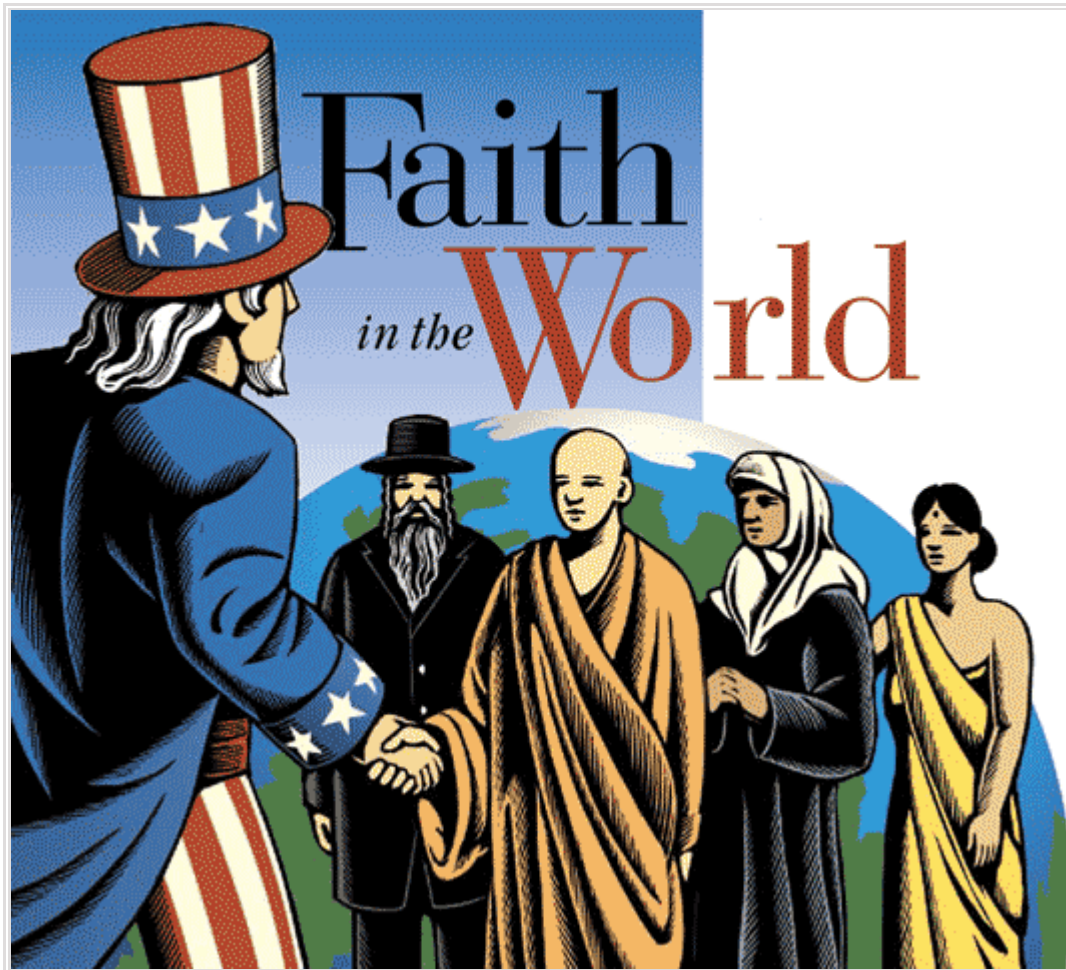
- ¹¹Ibid.
- ¹²Ibid.
- ¹³In Jonathan Lyons, "Bush Enters Mideast's Rhetorical Minefield," Reuters News Service, Sept. 21, 2001.
- ¹⁴Remarks by George W. Bush at Islamic Center of Washington, DC., Sept. 17, 2001.
- ¹⁵Remarks by George W. Bush and President Megawati Sukarnoputri, President of Indonesia, Sept. 19, 2001.
- ¹⁶George W. Bush's address to a joint session of Congress and the american people, Sept. 20, 2001.
- ¹⁷Remarks by George W. Bush at Iftaar dinner, state dining Room, Nov. 7, 2002.
- ¹⁸Remarks by George W Bush in a statement to reporters during a meeting with U.N. Secretary-General Kofi Annan, Nov. 13, 2002.
- ¹⁹Remarks by George W. Bush at National Prayer Breakfast, Washington Hilton Hotel, Feb. 7, 2002
- ²⁰Ibid
- ²¹In Paul Kengor, "God & W at 1600 Penn.," National Review, Mar. 5, 2003, remarks by George W. Bush at a town hall meeting with Citizens of Ontario, Ontario Convention Center, Ontario, California, Jan. 5, 2002.
- ²²George W. Bush, State of the Union address, Jan. 28, 2003.
- ²³George W. Bush Addresses National Prayer Breakfast, Washington Hilton, Feb. 6, 2003.
- ²⁴Pierard and Linder speak of "pastoral civil religion, particularly in reference to Dwight Eisenhower and Ronald Reagan" See Pierard and Linder, pp. 84-205 and 257-283.

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Faith In The World

It Is Time To Acknowledge The Atrocious Treatment That People Of Faith Receive Around The World. It Is Time To Send The Governments Of These Nations Clear Messages That They Cannot Persecute People Of Faith While The World Stands Silently By.

BY: JOSEPH K. GRIEBOSKI



It is time to acknowledge the atrocious treatment that people of faith receive around the world. It is time to send the governments of these nations clear messages that they cannot persecute people of faith while the world stands silently by. It is time to acknowledge that China, India, Pakistan, Saudi Arabia, and Turkmenistan each fit precisely the characteristics of a "country of particular concern" as defined by American law. To do anything less is a clear signal that they can continue their brutal subjugation of people of faith with impunity, while America watches and remains silent.

In the five years since the unanimous passage by the United States Congress of the International Religious Freedom Act in 1998, the state of freedom of religion around the globe has not improved; in actuality, it has worsened.

A rampant disregard is growing globally for the rights of religious believers at the hands of governments and with the complicity of religious leaders. For example, the past several years have brought the legislative discrimination of religious minorities at the hands of national governments in several countries; exportation of dangerous anti-religious legislation; attempts to bolster legally the status of national religions at the expense of other faiths; and government-created atmospheres of religious intolerance, which lead to societal



and community violence against religious minorities.

While the State Department's last annual Report on International Religious Freedom accurately portrays the generalities and basic facts with regard to the status of freedom of religion globally, it fails to indicate the more subtle realities of the impact of violations of freedom of conscience on national and regional security, refugees, and on overall international human rights standards. For example, the executive summary states, "Some democratic states in Western Europe have undertaken policies resulting in the stigmatization of minority religions, the result of identifying them indiscriminately and often inaccurately with dangerous 'sects' or 'cults.' These practices are troubling in that other nations struggling toward democracy, as well as certain nondemocratic states, are adopting 'anti-cult' laws and policies that are based in part on those of Western Europe. In nondemocratic nations, lacking a tradition of commitment to human rights and rule of law, 'anti-cult' laws could easily be implemented in ways that result in the persecution of people of faith."

The very fact that these items are included in the executive summary is a positive step, as none of these items are included in the body of the Western Europe reports. To characterize the treatment of religious minorities as "troubling," leading one to believe that the state's actions are solely one of misidentification, is dangerous and erroneous. In France, for instance, the About-Picard law passed in 2001 establishes a new crime of "mental manipulation" that is not defined anywhere in French law. Institute on Religion and Public Policy staff met with one French official who said that "mental manipulation is similar to pornography in the United States; we'll know it when we see it." This law goes on further to bring about serious criminal and civil punishments—including closings of religious institutions and all related organizations, fines, and even barring access to one's own children. This is

much more serious and concrete than simply identifying an organization as a sect or cult.

Further, the executive summary makes reference to the exportation by elements of the French government of the About-Picard model. Yet neither the summary nor the report itself notes that officials of the Interministerial Commission to Battle Sects and Cults—an official government agency whose head reports directly to the prime minister—visited 88 countries in a period of only three years. I would challenge the committee to investigate whether or not the Office of International Religious Freedom at State has the resources, manpower, and mandate to visit as many countries in the same period of time. I would venture to guess that it could not.

There are other equally egregious oversights in the report relating to issues previously mentioned. However, one cannot place the blame on the Office of International Religious Freedom. Their hard work, dedication to the issue, and fulfillment of American commitments to international agreements—and domestic law—are unquestionable.

The problems lie in the overall attitude and understanding of the role of religion and freedom of conscience in American foreign policy. From the bureaucratic obstacles and intellectual and philosophical antipathy regarding the issue in the United States government, to the lack of understanding, interest, and attention of individuals within the administration, to the lack of direction, misunderstanding of role and position, and inappropriate actions and sentiments of institutions established by law to "work" on international religious freedom, the issue of international freedom of conscience is not taken seriously.

The right to life, the right to freedom of religion or belief, and respect for religious and cultural heritage are the basic premises for human existence. The fact that there are still many places today where the right to gather for worship is either not recognized or is limited to the members of one religion alone, or where religious belief is pushed aside in the name of development or "modern thought," is a sad commentary on any claim to a more just, peaceful world on which fundamental rights and freedoms are more widely promoted and respected.

Religious liberty, in the full sense of the term, is the first human right. This means a liberty that is not reduced to the private sphere only. To discriminate against religious beliefs, or to discredit one or another form of religious practice, is a form of exclusion contrary to the respect of fundamental human values and will eventually destabilize society, where a certain pluralism of thought and action, as well as a benevolent and brotherly attitude, should exist. This will necessarily create a climate of tension, intolerance, opposition, and suspect, not conducive to social peace.

All peoples have the right to express their faith and religious beliefs as they so wish according to the dictates of their minds, hearts, and consciences, immune from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to their own beliefs, whether privately or publicly, whether alone or in association with others within due limits.

Differences between religious traditions must be accepted, respected, and tolerated. The practice of any faith must be conducted with respect for other religious traditions. Religious tolerance must be based on the conviction that God wishes to be adored by people who are free. This is a conviction that requires us to respect and honor personal conscience, wherein each person meets God.

When such respect and understanding is not realized, and when the differences in religious belief or conviction lead to civil strife and war, there is a need for mutual forgiveness.

The United States government must accept its awesome responsibility of both protecting American vital interests and promoting American values in its bilateral relationships and discussions. It falls upon American government institutions to remind foreign governments of their international commitments regarding freedom of conscience and protection of minority rights. The United States must have a flexible foreign policy that allows it to hold its allies to the same criteria and levels to which it holds its opponents.

The fate of religious minorities around the globe rests on the willingness of courageous souls, called by virtue and filled with the desire to promote liberty and justice, to resist the temptation of apathy and speak for truth.

All are equal before the law and are entitled without discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of their rights.

Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to have or adopt a religion or belief. Everyone has the freedom alone or in community with others and without any outside interference to express their religion or belief in teaching, practice, worship and observance, within the limitations that are prescribed by law and are necessary to protect public safety, order, health, or morals, or the fundamental rights or freedoms of others. No one must be persecuted or denied their rights because of their religious beliefs. No discrimination or privileges based on affiliation or rejection of affiliation to a religion are acceptable.

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JANUARY / FEBRUARY 2007

Churches Attacked

BY: ALAN J. REINACH, ESQ.



After midnight on the last day of the 2003 legislative session, the California legislature adopted a controversial measure to require religious institutions to provide the same benefits to domestic partners of employees as are provided to spouses as a condition of contracting with the state. Authored by an openly lesbian assemblywoman from San Diego, Christine Kehoe, Assembly Bill 17 appeared, on its face, to apply generally to all state contractors. Careful legal analysis determined that only certain religious institutions would actually be subject to the law. In short, the bill was a direct attack on those religious institutions that had moral and doctrinal objections to providing benefits to those engaged in a gay lifestyle.

That California legislators were dismissive of religious liberty concerns became apparent in lobby efforts to persuade them that AB 17 violated fundamental rights of religious autonomy guaranteed by the First Amendment and the California constitution. One legislator said bluntly: "This bill doesn't violate your religious freedom. You are still free to worship God in church." This legislator may have been more direct than some, but the attitude was representative. So long as you are free to worship God in church, it doesn't matter what restrictions are imposed on religious institutions. If you want to participate in public life, you must play by public policy rules.

Ironically, the Seventh-day Adventist Church State Council led the lobby effort to obtain an exemption for religious institutions. The irony is that the Adventist Church has tried to avoid the culture war legislative battles over gay rights. The church has never adopted any formal policies addressing the legal status of gays. Yet the conservative groups that usually oppose gay rights were largely absent from this battle, while Adventists were seeking to protect the autonomy of their hospitals and colleges. Although Adventist policy has long required avoiding dependence on government funding streams, this has become a practical impossibility with respect to health care and higher education. Such dependency has now made these institutions vulnerable to attack.

AB 17 represented just such an attack, shrouded in language that seemed to apply generally to all state contractors. In 1990 the United States Supreme Court ruled that religious freedom could be restricted so long as it was done "unintentionally" through laws that applied evenhandedly to all. Legislation intentionally targeting churches still violates the free exercise clause. The church state council put the California legislature on notice that AB 17 unconstitutionally singled out religious institutions, who alone would be subject to its provisions. This was because of a quirk in ERISA, the federal statute that governs employee benefits. ERISA prevents states from regulating benefits, but it specifically permits religious institutions to opt out. This opt-out provision was intended to protect their religious freedom. Ironically, it has now made these institutions subject to state regulation.

The bill was never about actually providing benefits to domestic partners. Religious institutions are entitled, under California employment discrimination law, to hold employees to religious lifestyle standards. Those who violate sexual ethics standards may be disciplined, even terminated; and so anyone actually seeking domestic partner benefits could lawfully be terminated. Thus, the bill could never really have been intended to ensure that domestic partners receive benefits. Moreover, from the standpoint of the religious institutions, the issue was never about money, either. They never anticipated that AB 17 would impose significant costs, even if employees applying for the benefits were not terminated. There are religious institutions such as hospitals that don't discriminate in hiring against gays. But the numbers of domestic partnerships among such employees are too small to make a fiscal impact.

The real concern was that AB 17 would require some religious institutions to adopt policies in conflict with doctrinal beliefs. The churches could teach whatever they wished about sexual morality on Sabbath or Sunday, but come Monday they would have to treat domestic partnerships as legitimate and entitled to benefits the same as married couples.

Gay rights rhetoric, invoking as it does the moral force of the civil rights movement, suggests where the pendulum is intended to swing. In the early 1980s the U.S. Supreme Court determined that in order to be eligible for tax exemption, a religious institution must be in harmony with public policy. The Court upheld an IRS decision to revoke the tax-exempt status of Bob Jones University because it had a policy that did not permit interracial dating by students. The Bob Jones case points to where the gay rights movement is headed: any church that does not recognize gay marriage will be stripped of its tax-exempt status, not to mention the right of its clergy to perform state-recognized weddings.

There is historical precedent for such speculation. In the nineteenth century federal policy effectively forced the Mormon Church to abandon its doctrinal teaching concerning polygamy. In the twentieth century the civil rights laws of the 1960s produced doctrinal change in the Southern White churches on the subject of race. Moreover, three Canadian appeals courts have recently struck down the traditional definition of marriage as a violation of the Canadian Charter of Rights. Canadian churches are already afraid of losing their legal status if they don't comply with the gay rights agenda. In the United States a backlash to the Supreme Court's decision last summer striking down a Texas sodomy law is already evident with the introduction into Congress of a constitutional amendment to protect the traditional definition of marriage.

Regardless of whether the pendulum swings, AB 17 sends a strong signal to religious organizations to avoid the temptations dangled by the "faith-based" funding initiative begun under the Clinton administration and vigorously pursued by President George W. Bush. Clearly it is dangerous for faith-based social service agencies to become dependent on government funds, no matter how free of strings such funds may be at the outset. Government funding too easily becomes a lightning rod for social policy.

AB 17 also signals both the willingness and sophistication of legislators to adopt language that appears to be "facially neutral" toward religion, while in fact targeting religion. Critics of the Supreme Court decision restricting free exercise clause protection to those laws that intentionally restrict religion have long contended that legislatures are capable of concealing "intent" in neutral language. Indeed, legislative intent is itself highly controversial. Legislators on both sides of an issue play games to ensure that bill language is sufficiently ambiguous to spin in their direction, and then insert analyses and letters into the legislative record in support of their own spin. From a judicial standpoint, determining legislative intent is a perilous effort.

Because the governor's budget office issued a report identifying AB 17's fiscal impact as significant, the bill could be passed only by postponing the effective date until 2007. This avoids any immediate fiscal impact, but it also gives lawyers ample time to prepare a legal challenge that is almost certain to come. No doubt such challenges will include claims under the First Amendment's establishment clause, since it is that clause that the federal courts have used to protect the autonomy of religious institutions.

AB 17 is more than just a bill coercing churches to violate their faith. It is more than just a frontal assault on the doctrinal beliefs of conservative churches with respect to homosexuality. It raises the question of how long the institutional separation of church and state will survive.

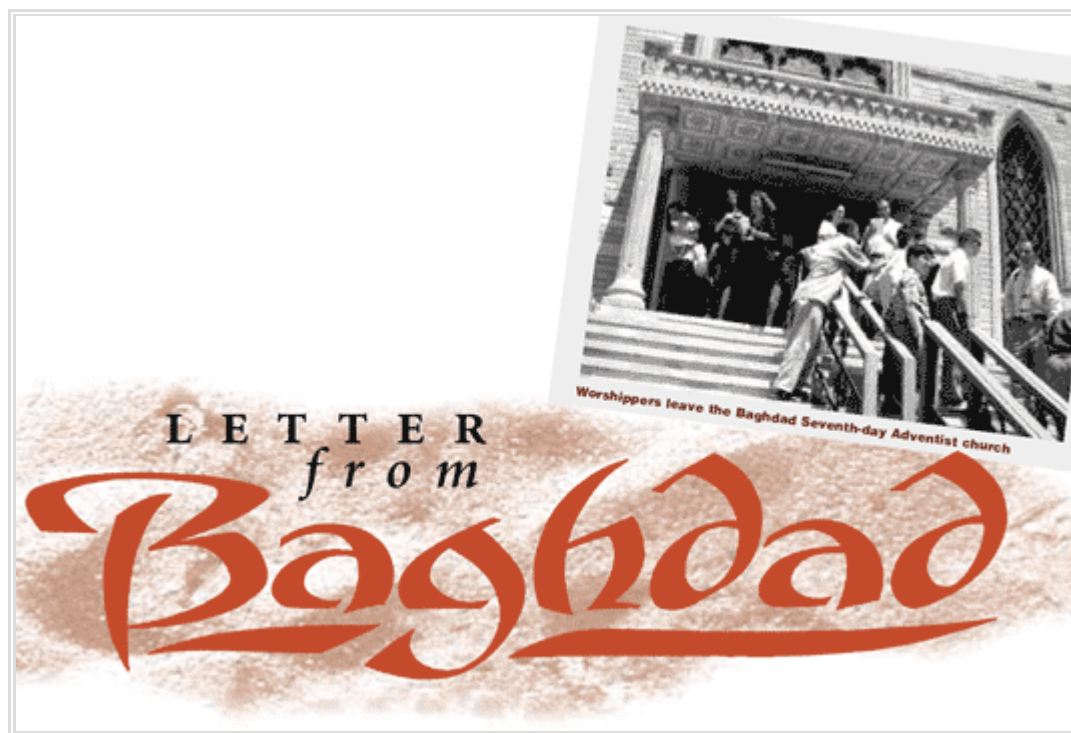
Alan J. Reinach, Esq., writes from Thousand Oaks, California. He is host of the Freedom's Ring radio program and President of the Seventh-day Adventist Church State Council.

JANUARY / FEBRUARY 2007

Letter From Baghdad

Remember All Those Pictures Of Iraq You've Seen On TV? Believe Most Of It, But Not All. A Few Things Are Better Than Reported; Some Others Are A Lot Worse. Very Little Here Is Normal. Iraq Is Hot, Dirty, Hot, Chaotic, Hot, Stressful, Hot, Dangerous&mdas

BY: "MITCH" TYNER



Remember all those pictures of Iraq you've seen on TV? Believe most of it, but not all. A few things are better than reported; some others are a lot worse. Very little here is normal. Iraq is hot, dirty, hot, chaotic, hot, stressful, hot, dangerous—did I mention hot? The afternoon highs run 115 to 120 degrees, with not a cloud in sight.

Even getting here is abnormal and stressful. The airport is closed to airline traffic, so you have three options: (1) you can drive 10 hours across the desert from Amman, Jordan, through what is referred to here as Ali Baba Alley because of the prevalence and effectiveness of thieves along the route (remember, with only 140,000 troops on the ground in a country the size of California, and no local police, most things and places go unguarded); (2) you can drive up from Kuwait on a somewhat safer route; or (3), the option we chose, you can fly in from Amman with an organization called AirServ that exists to ferry personnel of nongovernmental organizations and relief agencies to Baghdad, using 12 to 18 passenger planes. Yes, they get you to the airport—but not the usual way. Instead of a nice, gentle glide slope down from cruising altitude, you come directly over the airport at 15,000 feet and corkscrew down to avoid lower altitudes until you're in secure airspace.

Security is, of course, a paramount concern here, and there is precious little of it. Military patrols are everywhere. There's a tank sitting outside our hotel and a military police checkpoint at the other end of the block. But people are afraid to move about the city, and most refuse to leave home after dark. Every day there are shootings, and every night rapes and robberies. More than 700 people in Baghdad have died of gunshot wounds this month. It does get your attention!

Remember I said some things are even worse than reported? You know about the heat (although knowing and experiencing are two different things), and you know about the random violence (but you haven't experienced sitting in your hotel room and hearing the pop-pop-pop of small arms fire, or feeling as much as hearing the explosion of something bigger). There's more. No one has picked up

the garbage since Saddam left town. The electricity is on two or three hours, then off the same amount of time.

And the phones don't work. Well, only a few: specifically, only cell phones that have a United States area code 914 number, obtained via the Coalition Provisional Authority, or CPA. Yes, I know that 914 is Westchester County, New York. It now includes Iraq. Go figure. Anyway, phones are few and far between. How do you go about conducting any semblance of normal affairs with no security, no traffic control, and no telephone? It's a challenge.

Enough complaining. As you know, my mission here involves contacts with people in the CPA and with local religious leaders. We're working on both some very specific current religious liberty problems and also doing some longer-range thinking about how things might—and should—be after the departure of the coalition. We're making progress, and have had a few pleasant surprises amid the chaos.

Remember I said a few things are better than reported? Well, here's one. Earlier this week I met with the representatives of the religious groups in Iraq: Muslim, Orthodox, Chaldean Catholic, and various Protestant groups. We talked about the problems they are experiencing, as well as their hopes for the future. I asked what message they wanted the CPA to hear. It came down to this: "We have lived here together peacefully for a millennium. We know how to do it. Give us security and a government that treats us all equally and equitably, and we'll do it again."

The most impressive speech was made by a lawyer who represents several religious groups in Iraq. He said, "We want a government that respects our heritage and history, but we also want a government that separates religious power from political power. We don't want an established religion. We want a government that respects religions—all of them. We don't want a society that demeans religion, as some Western cultures do. We are familiar with global notions of individual rights. We want those rights and protections."

It was a great speech. Neither of us could have said it better, or more directly. Here's the kicker: the lawyer is a Shiite! In the West the media so often portray a caricature of Shiites as foaming at the mouth and throwing bombs. Not this guy. He is both knowledgeable about and clearly dedicated to his religion, and at the same time completely supportive of human rights and equality. That's a powerful combination.

Yes, there are Shiites who advocate (and practice) violence in the name of God. Guess what? In my recent travels I've met Christians, Jews, Hindus, Buddhists, and an array of other people who do the same. No religion is immune from its own violent minority, including ours. But every religion also has a core of rational, knowledgeable people who want equal rights in the public square for its adherents, and who want exactly the same rights for all others, even those with whom they disagree. They aren't Americans, but they immediately understand Ben Franklin's famous observation that if we don't hang together we will all hang separately.

Those are the people we need to know. So for the next few hot days here in Baghdad, I'll keep my head down and keep looking for more of them.

"Mitch" Tyner is now back from Iraq. His usual address is Silver Spring, Maryland, where he is associate general counsel for the Seventh-day Adventist Church.
