



# LIBERTY

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# RELIGIOUS LIBERTY IN A POST





# Walking a Thin Line

Since September 11, 2001, President George W. Bush and the United States Congress have been sometimes frantically creating legislation that will make America more secure. In the process, however, they are walking a thin line between protecting and trampling Americans' civil liberties. As our government officials work overtime to protect us from terrorists, they need increasingly to be mindful of the words of Benjamin Franklin, "They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety." As Americans enter a new era of security legislation, the most precious of all American freedoms, religious liberty, is on the verge of being subordinated to "national security" interests.



## Legislative Enactments

In the wake of 9/11, Congress moved quickly to pass the controversial USA PATRIOT Act. Of special concern is the law's provisions that give broad powers to both the attorney general and secretary of state to reach into that traditionally sacred and protected ambit of American culture—religion. The skillful grafting of the American Constitution has thus far generally denied to government the power and opportunity to monitor religious systems that exist within U.S. borders, although religious charities are coming under increasingly rigorous scrutiny. Still, most Americans likely would contend that such protections should not extend to religious beliefs, doctrines, and practices that advocate the subversion of the state. Declarations of holy war by terrorists against the United States, and the growing suspicion that some terrorist groups have been operating covertly in this country, abusing the First Amendment's religious protec-

tions to plan their atrocities, beg the question of whether antiterrorism measures should be directed against religious groups, Islamic as well as non-Islamic.

The PATRIOT Act allows federal agents to tap phones and search property—including churches, temples, mosques, and synagogues—without notification or warrant. Former Attorney General John Ashcroft had said that the Justice Department will pursue those religions that make their faith an "implement of war." And the president's expressed desire to "punish terrorists *before* they strike" suggests that government agencies will conduct investigative activity all along the "ideology—planning—action" continuum of terrorism. Undoubtedly there will be an increase in the

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possibility that groups critical of the government but harboring no violent intentions will get caught up in the widening scope of such investigations. That many churches traditionally have undertaken a prophetic role in relation to government, that is, have been willing to speak out against questionable government policies, makes them particularly vulnerable to such investigative methods. Equally troubling is the question of whether the actions of a few members could result in the labeling of a religion or sect comprised of thousands, perhaps millions,

*Once the line is crossed that separates government authority from religious belief and practice, it will be government bureaucrats who ultimately determine the meandering course of that line.*



of adherents as a terrorist organization. One would assume that officials of the Justice Department or other federal agencies will be required to review the content of religious messages and internal communications of "suspicious" faith groups in order to carry out their mission. And by what criteria will particular groups come under suspicion? Will contributions to certain political organizations, either foreign or domestic, automatically establish a religious group as a target for governmental investigation? Will statistics be kept on faith groups to identify those whose members exhibit the greatest proclivity to terrorist or other criminal behavior? Will each member of a group automatically be classified as a terrorist simply because his or her organization has been so classified? And once an individual or organization is classified as terrorist, by what means will the person or group be able to absolve himself, herself, or itself of that label?

A logical question that emerges from the antiterrorism legislation is whether a large religious group, such as the Shiite sect of Islam, could be labeled terrorist, and whether its clerics, both foreign and domestic, could be denied the right to speak publicly in the United States. Some Christians might applaud such a development; however, they should think twice. Once the line is

crossed that separates government authority from religious belief and practice, it will be government bureaucrats who ultimately determine the meandering course of that line. The assumption that Christian groups will not fall under state surveillance for the mere reason that they are Christian is a highly presumptuous logic.

To date, only Islamic groups have come under close surveillance, but expanded efforts to locate potential terrorists make it virtually certain that non-Islamic groups will eventually find themselves under the government's microscope.

Nevertheless, it appears that some Christians are of the mind-set that they will be excluded from possible future investigations of organized terrorism for the reason that they are members of the majority faith. Certain Christian groups, such as Pat Robertson's American Center for Law and Justice, have expressed unqualified support for the actions that Congress and the Justice

Department have taken thus far. Even the activist organizations of "liberal Christianity" have been relatively silent considering the magnitude of changes currently taking place. The National Council of Churches and Christian World Service have voiced a few words of caution concerning extended detentions, but on the whole, Christians in the United States have expressed little resistance to what are arguably the most radical changes affecting civil rights in America in the past 30 years.

In addition to passing the USA PATRIOT Act, Congress created in November 2002 the Homeland Security Department, the largest single agency in the U.S. government. It has an annual budget of \$40 billion and employs about 170,000 persons, all in the interest of protecting Americans from terrorism and other acts of violence. Homeland Security will have the primary responsibility of searching out and locating potential terrorists under the USA PATRIOT Act. The size and resources of Homeland Security alone increase its potential to locate terrorists, but simultaneously to encroach upon the heretofore private rights of countless persons.

There have been other legislative measures that, given their post-9/11 timing, seem designed to shore up national pride in the interest of pursuing the new war on terror. House Resolution



459 and House Resolution 428 were created to affirm that reciting the Pledge of Allegiance is constitutional and that all Americans should be encouraged to recite it. Although the resolutions were a response to the Ninth Circuit Court's decision that the phrase "under God" in the pledge is unconstitutional, it is doubtful that the decision would have evoked such a congressional reaction were it not for the patriotic fervor stimulated by the 9/11 tragedy. House Resolution 3895 (the Ten Commandments Defense Act of 2002) affirms the Ten Commandments and declares that the power to display them is within the states' rights. House Resolution 315 requires the architect of the Capitol to prominently display the Ten Commandments in the chambers of the House and Senate. These mixtures of religion and patriotism illustrate Congress's desire to allay Americans' fears and to cultivate a spirit of unity throughout the nation. But in a nation thoroughly committed to religious pluralism, is it Congress' job to use religion as a tool to promote unity, particularly when a document such

should be a legitimate policy has been reopened. One sector of society that has struggled and will struggle the most with a policy of profiling is the airline industry. Floyd Abrams, who served on a panel advising against racial profiling a few years ago, stated that after 9/11 the airline industry was challenged to "walk a line that avoids simplistic ethnic profiling while still allowing commonsense law enforcement." And this racial profiling could easily be turned into religious profiling of Muslims. An ABC News/Beliefnet poll demonstrated that 33 percent of Americans have an unfavorable opinion of Islam. Another finding indicates that 35 percent of Americans believe Islam does not teach respect for other faiths. These numbers reflect that the American perception of Islam is not good, and that it is worsening. Clearly, 9/11 has done irreparable damage to Christian-Islamic relations. As sentiments like these fester and grow, including beliefs that "terrorists" have no rights and deserve no protections, our minds should immediately turn to a similar dark time in our

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as the Ten Commandments so clearly favors the Judeo-Christian tradition? Is this not insensitive to the establishment clause demands that prohibit governmental advancement of any religion over others?

### Living With Fear

Americans are reluctantly adjusting to living with terror. Their ability to handle threats increases daily as the Homeland Security Advisory System remains in the heightened awareness colors of yellow, orange, or red, and rarely reaches the calmer blue or green. The fall 2002 sniper attacks in the Greater Washington, D.C., area reminded us that terrorism and outrageous acts of violence are not something that can be vanquished, but are a reality that will always haunt us.

How do we balance our security needs and traditional freedoms such as religious liberty? Leti Volpp has argued that current U.S. policy labels citizens as terrorists.<sup>1</sup> While the government does not explicitly target citizens, an "us versus them" paradigm has rendered Arab-American freedom a casualty. "Those who appear 'Middle Eastern, Arab or Muslim,'" says Volpp, "are now being thrust outside of the protective ambit of citizenship as identity."

The debate about whether racial profiling might have prevented the attacks and therefore

nation's history—the Japanese internment.

The present generation's "day of infamy" eerily parallels the WWII era and the horrifying Japanese internment. Looking back to World War II, the government was forced to weigh the competing interests of racial equality and security when the presence of Japanese-Americans struck fear in the hearts of many Americans. Securing the nation outweighed the obvious pattern of ethnic discrimination that ensued in the form of massive internments. While President Bush has not invoked his authority in a way reminiscent of Roosevelt's Executive Order 9066, the dichotomy between citizen and noncitizen could be the groundwork for further violations under the guise of military necessity. A Gallup poll two years ago revealed that internment for those of Arab descent is favored by one in three Americans.<sup>2</sup> And the sentiment is increasing. Obviously, many Americans are willing to deny rights to an individual simply because of their race. Had the poll asked if one should be denied rights because of their religion, the result would likely have been the same.

Michael Linfield, in his book *Freedom Under Fire*, notes that there have always been violations of civil liberties in times of war. In the Revolutionary War and Civil War, Blacks were

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The very mention of the U.N. is enough to bring extremes of emotion and opinion. For some, it's the epitome of wasteful bureaucracy. For others, it's a worthless talking shop. For still others, it is the hegemony of evil, the omega of apostasy, or the end-time sword of doom.

Even its supporters qualify their opinions and point to areas that need improvement. That the U.N. is very much a human institution is undeniable, and to say that it is highly political is to state the more than obvious. The defects are there for all to see.

*But it's what we've got.*

Some voices:

"The decision is this for the United Nations: When you say something, does it mean anything? You've got to decide: If you lay down a resolution, does it mean anything?" *George W. Bush, U.S. president.* The alternative, said Bush in his February 11, 2003, address, was that the U.N. would become "an ineffective, irrelevant, debating society."<sup>1</sup>

"It has become a mantra among senior American officials that the United Nations risks irrelevance," comments *BBC News Online reporter Tarik Kafala.*<sup>2</sup>

"If the United Nations is 'irrelevant,' it's only because the United States has made it so." *Matthew Riemer, columnist, YellowTimes.org.*<sup>3</sup>

"The U.N. has been irrelevant for decades now because of its own inconsistent record." *Sherri Muzher, Palestine Chronicle.*<sup>4</sup>

"In a way, Iraq has more or less driven home to leaders around the world that the U.N. is a precious instrument, the U.N. is important. ...The big countries need the U.N. too." *Kofi Annan, U.N. secretary-general.*<sup>5</sup>

Or even the widespread conspiracy theories that have U.N. black helicopters spying on people, that claim that the U.N. is about to subvert the U.S. Constitution or that troops from China are preparing to invade the U.S. on behalf of the U.N.<sup>6</sup>

FBI director Louis Freeh said in a 1999 report on the views

of some extremist groups that the United Nations "is perceived as an organization bent on taking over the world and destroying American democracy and establishing 'the New World Order.' The New World Order theory holds that, one day, the United Nations will lead a military coup against the nations of the world to form a one-world government. United Nations troops, consisting of foreign armies, will commence a military takeover of America. The United Nations will mainly use foreign troops on American soil because foreigners will have fewer reservations about killing American citizens. Captured United States military bases will be used to help conquer the rest of the world."<sup>7</sup>

As just one example of such thinking, take the document Operation Vampire Killer 2000,<sup>8</sup> which claims to be the "American Police Action Plan for Stopping World Government Rule," and is published by "Police Against the New World Order." It states that a conspiracy of individuals hopes "to deliver the People of the U.S. into the hands of a foreign power known as the United Nations, which is actually an oligarchy of the world's super-rich, who have no allegiance to any one nation and who control the U.N. from behind the scenes."

A brief sample, headed "World Government Under the United Nations," reads as follows:

"We should ask the following question of those fellow Officers who may doubt that they will be asked to enforce such a system on the American people, 'Whom do they think will enforce all of this?' Who will make the masses 'fit-in'? Who will 'remove' those who do not fit-in? Will it be the auto mechanics, bankers, school teachers, bakers, or candlestick makers? Or, is it more likely to be Enforcement Officers?

"John E. Rankin, U.S. Congressman: 'The United Nations is the greatest fraud in all History. Its purpose is to destroy the United States.'

"George Bush, New York 1991, 'My vision of a New World Order foresees a United Nations with a revitalized peacekeep-

## *The UNITED NATIONS & Religious Freedom*

# DEFENDER, DESTROYER, IRR *or just plain*





ing function.' ...[Also] 'It is the *sacred* principles enshrined in the UN Charter to which we will henceforth pledge our allegiance.' —UN Building, February 1, 1992.

"Unbelievable! That ought to *fry the grits of every lawman and true American that reads this quote*. Brother and sister Officers, how many of you are going to take a 'sacred' oath of allegiance to the U.N. World Government?"

Highly charged views, yet often repeated, and available on a myriad of Web sites.

So, in the context of all these extreme and mutually incompatible views of the U.N., what of contributions to religious freedom and fundamental human rights? Is it a help or hindrance? Is it the potential tool for dictatorial world government, a coming Dark Ages time when freedom of religion and conscience will be denied? Or is the U.N. the savior of democracy and fundamental freedoms, the beacon of hope for the future?

If you have ever attended any kind of U.N. meeting, you know that the most that can be said is "None of the above!" The United Nations is a misnomer—it may be a group of (currently) 191 nations, but it is far from being united. In fact, much time is spent on protocol and procedural issues because of the fractured relationships between nations. In my role of representing church and religious freedom groups at the U.N., the frustration is not so much over its potential as a world hegemony or golden age of universal brotherhood or harbinger of the Apocalypse, but over its ability to get something done on the vital issues that confront our world. Lost at sea in an ocean of paperwork, submerged by points of order and rights to reply, overwhelmed by political waves and international storm surges, it's a wonder the ship is afloat at all. Yet float it does, and the contributions of the U.N., especially in the area of human rights, are sizable and significant. For the U.N. does provide the venue and the structure for global decisions and dialogue, for concrete action on specific problems. It ensures the opportunity for civil society (you and me) to be involved.

So, what of the U.N. record, particularly in reference to religious freedom?

For many of the conspiracy theorists, the U.N. is a destroyer of freedoms. Yet the record does not reveal such a conclusion. From its beginnings the U.N. placed strong emphasis on civil liberties and human rights. These are

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# ELEVANT?

By JONATHAN GALLAGHER



**A**s the dispute about what happened on John Kerry's Swift boat more than 35 years ago filled the airwaves last summer, it was distressing that very few people focused on something that actually mattered and continues to matter: a much less publicized war that continues to rage in Vietnam. This new war pits religious leaders, democracy advocates, and independent journalists against the still-ruling Communist Party.

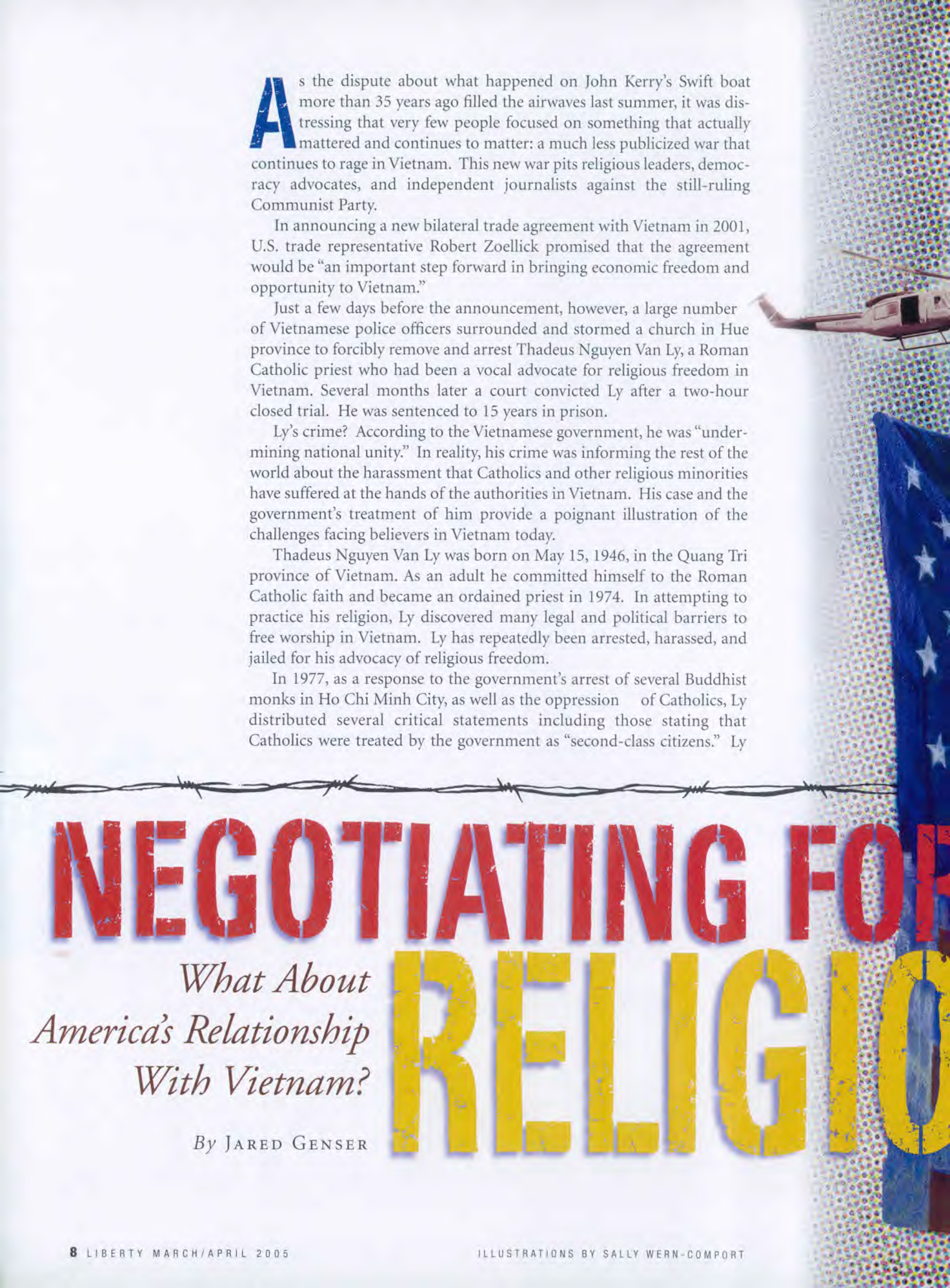
In announcing a new bilateral trade agreement with Vietnam in 2001, U.S. trade representative Robert Zoellick promised that the agreement would be "an important step forward in bringing economic freedom and opportunity to Vietnam."

Just a few days before the announcement, however, a large number of Vietnamese police officers surrounded and stormed a church in Hue province to forcibly remove and arrest Thadeus Nguyen Van Ly, a Roman Catholic priest who had been a vocal advocate for religious freedom in Vietnam. Several months later a court convicted Ly after a two-hour closed trial. He was sentenced to 15 years in prison.

Ly's crime? According to the Vietnamese government, he was "undermining national unity." In reality, his crime was informing the rest of the world about the harassment that Catholics and other religious minorities have suffered at the hands of the authorities in Vietnam. His case and the government's treatment of him provide a poignant illustration of the challenges facing believers in Vietnam today.

Thadeus Nguyen Van Ly was born on May 15, 1946, in the Quang Tri province of Vietnam. As an adult he committed himself to the Roman Catholic faith and became an ordained priest in 1974. In attempting to practice his religion, Ly discovered many legal and political barriers to free worship in Vietnam. Ly has repeatedly been arrested, harassed, and jailed for his advocacy of religious freedom.

In 1977, as a response to the government's arrest of several Buddhist monks in Ho Chi Minh City, as well as the oppression of Catholics, Ly distributed several critical statements including those stating that Catholics were treated by the government as "second-class citizens." Ly



# NEGOTIATING FOR *What About America's Relationship With Vietnam?* By JARED GENSER

# RELIGION





**US FREEDOM**



was arrested and detained for more than a year.

Upon his release Ly continued to actively practice Roman Catholicism. Part of that practice included in August 1982 organizing and attempting a pilgrimage to La Vang, a site holy to Vietnamese Catholics since about 1800. Soon after, in November 1982, he was arrested and charged with leading an illegal pilgrimage. He was sentenced to 10 years' imprisonment for "opposing the revolution and destroying the people's unity."

After his release in July 1992 Ly was banned from conducting religious activities and was placed under government surveillance. Since then he had continued to express his views, calling for the full realization of human rights in Vietnam. From issuing a "10-Point State-ment of the State of the Catholic Church in Hue Diocese," to hanging on his church a banner with the words "We need religious freedom," to peacefully confronting the government over the issue of whether villagers could cultivate disputed church land, Ly remained fully engaged in the struggle for religious freedom.

On the basis of his activities Ly was formally invited to testify before the U.S. Commission on International Religious Freedom. While he was denied permission to leave Vietnam to come to Washington, D.C., his testimony was read into the commission record on February 13, 2001. In his statement Ly spoke eloquently about the status of religious freedom in Vietnam.

Just two weeks later, on February 26, 2001, he was put under house arrest. A few months later about 600 police officers surrounded and stormed An Truyen church to arrest Ly as he prepared for mass. After a two-hour closed trial Ly, who was denied access to counsel, was sentenced to 15 years in prison for "undermining national unity."

Since then an international campaign has been conducted to secure his release. On November 27, 2003, the U.N. Working Group on Arbitrary Detention determined that he was being held in violation of international law, especially his right to freedom of opinion and expression. In its ruling the U.N. Working Group said, "The government has not presented convincing arguments to invalidate the

allegations that ... Rev. Ly was sentenced... to prison because he published articles critical of the government and the Communist Party and that he had not benefited from the norms of a fair trial."

His ongoing detention has caused an uproar in the United States. Of course, the U.S. Commission on International Religious Freedom, to which he testified, has publicly expressed its outrage at his treatment. In addition, a bipartisan group of more than 100 members of Congress, led by such stalwart champions of human rights as Representative Christopher Smith (R-NJ) and Representative Loretta Sanchez (D-CA), cosponsored a resolution calling for Ly's release; it passed the U.S. House of Representatives by a 424-1 vote. The State Department has called for his release. And Senator Sam Brownback (R-KS), chair of



*The administrative  
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the East Asia and Pacific Subcommittee in the Senate Foreign Relations Committee, was given the unique

opportunity to meet with Ly in his prison in January 2004.

While the government of Vietnam has bent under this intense pressure and reduced his sentence twice, by a total of 10 years, he remains imprisoned. Indeed, as U.S. ambassador-at-large for international religious freedom John Hanford recently reiterated, "We are deeply concerned about [Ly]. They reduced his sentence twice. He needs to be released."

Over the past year the government has stepped up its campaign against the Montagnard Christians in the Central Highlands. Restrictions on the Unified Buddhist Church of Vietnam leaders have intensified, with much of the group's leadership placed under official or pagoda (house) arrest.

And perhaps most disturbing are the widespread government-sponsored forced renunciations of faith, in which local and occasionally central government officials are using great pressure and sometimes physical abuse to achieve their goals.



Unfortunately, the replies of the Vietnamese government to concerns raised by anyone about their repression of religion are generally counterproductive. It appears the government believes it can just gloss over religious human rights abuses through persistent disinformation, distortion, and outright lies. For example, the government's reply to the petition that my organization submitted to the United Nations on Ly's behalf is illustrative of the tone of a typical response: "The information provided to the Working Group that Mr. Ly's detention and sentence are a punishment for peacefully exercising his rights is totally untrue if not a brazen slander...in fact, Mr. Nguyen Van Ly is a recidivist."

Of course, Vietnam's actions were inconsistent with its words, and without facts to back up its rhetoric, the Vietnamese government lost the case in the United Nations. Until Vietnam is willing to acknowledge that it makes mistakes, rather than having a uniform and reflexively defensive response to all criticism, it is unlikely real progress can be achieved without the use of more blunt instruments of policy.

*should demand the **release** of Ly as evidence of the improvement of religious freedom and as a prerequisite, along with other actions, for the removal of this designation.*

When Senators John Kerry and John McCain successfully led the effort to reestablish diplomatic relations with Vietnam in 1995, there was great hope that engagement with that country would both enable the United States to put the Vietnam War behind it and also have a liberalizing effect on Vietnam's government, thereby improving the lives of its people. These hopes were only reinforced with the opening of borders between the United States and Vietnam after the bilateral trade agreement in 2001. But the government has remained an authoritarian regime and has successfully resisted many of our efforts to pry open their borders to allow not only for a free flow of goods but also of ideas. One can only conclude that our policy of engagement with Vietnam as implemented is not working and must be tailored to acknowledge deficiencies in the performance of the Vietnamese government.

First, the president should communicate to Vietnam that its actions undermine the bilateral relationship. These actions are especially frustrating because they come in the context of President Bush's having recently selected Vietnam as the fifteenth country to benefit from his \$15 billion emergency plan for HIV/AIDS. While we applaud this

initiative and do not begrudge the aid to Vietnamese victims of this terrible disease, provision of such help affords the opportunity—one missed by the administration last time—to insist on improved respect for religious freedom in Vietnam.

To this end, then Secretary of State Colin Powell made the right decision to designate Vietnam as a "country of particular concern" under the International Religious Freedom Act. This decision gives the administration the flexibility to impose graduated sanctions against Vietnam if its respect for religious freedom does not improve. The administration should demand the release of Ly as tangible evidence of the improvement of religious freedom in Vietnam, and as a prerequisite, along with other actions, for the removal of this designation.


Finally, the United States should signal to the Vietnamese government that it is prepared to take more aggressive actions, such as suspending nonhumanitarian financial assistance or reexamining the trade agreement (which must be renewed annually), unless its record on religious freedom and human rights improves.

Our nation's commitment to religious freedom is deep and long-standing. Shortly after our country's founding, Thomas Jefferson declared, "Almighty God hath created the mind free." Since then every generation has had its own struggle to preserve religious liberty at home and around the world.

The United States is not imposing its own views of religious liberty on the world. Rather,

we should seek to support Ly and the many others like him who have taken up the banner of religious freedom in Vietnam and elsewhere. The "official" Vietnam War may have ended in 1973 with the signing of the Paris Peace Accords, but the struggle for freedom of religion and other hallmarks of an open society in Vietnam continues.

*Editor's Note: It is worth emphasizing that while the case of Thadeus Ly raises questions about the situation of religious minorities in Vietnam, and the commitment of that nation to move in the direction of full religious freedom, there are other aspects that give hope.*

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# Thin Line

*Continued from page 5*

enslaved, and genocidal atrocities were committed against Native Americans. In WWI, WWII, and the Korean War there were virulent attacks against ethnic minorities. In the Vietnam War certain minority activists were abused, jailed, and according to some, murdered by government agents.

The argument Linfield wants to make is that deprivation of civil liberties has become an accepted norm during times of war. Ramsey Clark wrote that "war is more destructive to

*Religious liberty is the central pillar that establishes American freedom as unique and enduring.*



freedom than any other human activity. Any violation of civil liberties is easily justifiable in times of war and threat of war, however unnecessary for security, harmful to its victims, irrational, unfair, or even detrimental to the war effort itself." Justice Thurgood Marshall expounded upon this idea in the Supreme Court's *Skinner v. Railway* decision (1989) stating, "History teaches that grave threats to liberty often come in times of urgency, when constitutional rights seem too extravagant to endure."

Currently, hundreds of noncitizens remain detained without warrant or legal representation or even a guarantee that either charges will be filed against them or they will be released within a specific time frame. The PATRIOT Act sanctions this suspension of rights. But citizens are also at risk. Before 9/11 a Muslim intern was unexpectedly removed from a meeting at the White House. The Muslim community was outraged, and two dozen leaders of the Muslim community abandoned their meeting with the Office of Faith-Based and Community Initiatives in protest. When action like this can be taken without a threat of terror, the likelihood that it will occur with a looming threat is obvious.

## Protecting Our Freedom

Religious liberty is the central pillar that establishes American freedom as unique and enduring. Yet religion is at risk of losing its

sacred and protected status because of its identification with terror. This association of religion with terror, and its ability to engender fear in the hearts of Americans, in combination with legislation and policy changes that enable expanded powers of government surveillance have ominous implications for the nation's religious traditions. Should government be allowed to actively monitor the beliefs and activities of religious groups, it will become nearly impossible to retract those incursions even if it is recognized that they are causing harm to American society. Assertions of the temporary nature of counterterrorism measures based on rollback provisions or other assurances mean little. The intractability of government bureaucracy and the persistence of the welfare state exist as testaments of government's reluctance to give up power once achieved. No reason


exists to believe that government will be more conciliatory toward religion if it is able to skirt constitutional protections and encroach upon the religious lives of the American people.

There is no attempt here to minimize the modern threats to our nation and to other countries that find themselves at odds with terrorist fanatics. Nor is there any justification given for the horrendous acts of 9/11 that inflicted so much pain and suffering upon the entire nation.

The government is rightly pursuing those who perpetrated these acts and is well justified in applying the severest punishment under the law not only to the perpetrators but also to those who aided them. The intention here is in concert with that of American citizens who have insisted that the terrorists must not "win." But it must be recognized that terrorists "win" not based on buildings destroyed or planes crashed or people killed. They win principally by destroying the fabric of the societies they target, and that fabric includes the institutional relationships, including that between church and state, which enable spiritual vitality, material prosperity, and human liberty.

<sup>1</sup> Leti Volpp, "Critical Race Studies: The Citizen and the Terrorist," *UCLA Law Review* 49 (June 2002).

<sup>2</sup> Gallup Poll Analysis: The Impact of the Attacks on America, [www.gallup.com/poll/releases/prO\\_10914c.asp](http://www.gallup.com/poll/releases/prO_10914c.asp).

<sup>3</sup> Michael Linfield, *Freedom Under Fire: U.S. Civil Liberties in Times of War* (Boston: South End Press, 1990), p. xvii. 



## Scalia Talks Religion

Supreme Court justice Antonin Scalia says that a religion-neutral government does not fit with an America that reflects belief in God in everything from its money to its military.

"I suggest that our jurisprudence should comport with our actions," Scalia told an audience attending an interfaith conference on religious freedom at Manhattan's Shearith Israel Synagogue on November 22, 2004.

What is especially troubling is that Scalia, with his antagonism toward church-state separation, may in fact be next in line for chief justice of the Supreme Court now that President Bush has won his second term, and given the tenuous health of Chief Justice Rehnquist.—WINS-AM1010 (Infinity Radio New York City) news story, November 22, 2004.

## Moral Values in the Public Square

PBS's weekly TV news magazine *NOW with Bill Moyers*, on November 12, 2004, discussed the recent presidential election, especially keying in on the influence of Christian evangelists and organizations.

Bill Moyers read a letter from Bob Jones III, president of Bob Jones University, to President Bush. "Put your agenda on the front burner and let it boil," wrote Jones. "You owe the Liberals nothing. They despise you because they despise your Christ. . . . You will have [the] opportunity to appoint many conservative judges and exercise forceful leadership with the Congress in passing legislation that is defined by biblical norm. . . . Pull out all the stops and make a difference. If you have weaklings around you who do not share your biblical values, shed yourself of them."—*NOW With Bill Moyers*, PPS, November 12, 2004.

## Evangelicals Want Reward

Several Evangelical groups and leaders fearing that their strong support for the president might not translate into the instant influence they expected, are pressuring the White House and Congress to fulfill their agenda or face the consequences.

"In recent days, some evangelical leaders have warned in interviews that the Republican Party would pay a price in future elections if its leaders did not take up the issues that

brought evangelicals to the polls."—*Los Angeles Times*, November 12, 2004.

## Danger of Mob Rule

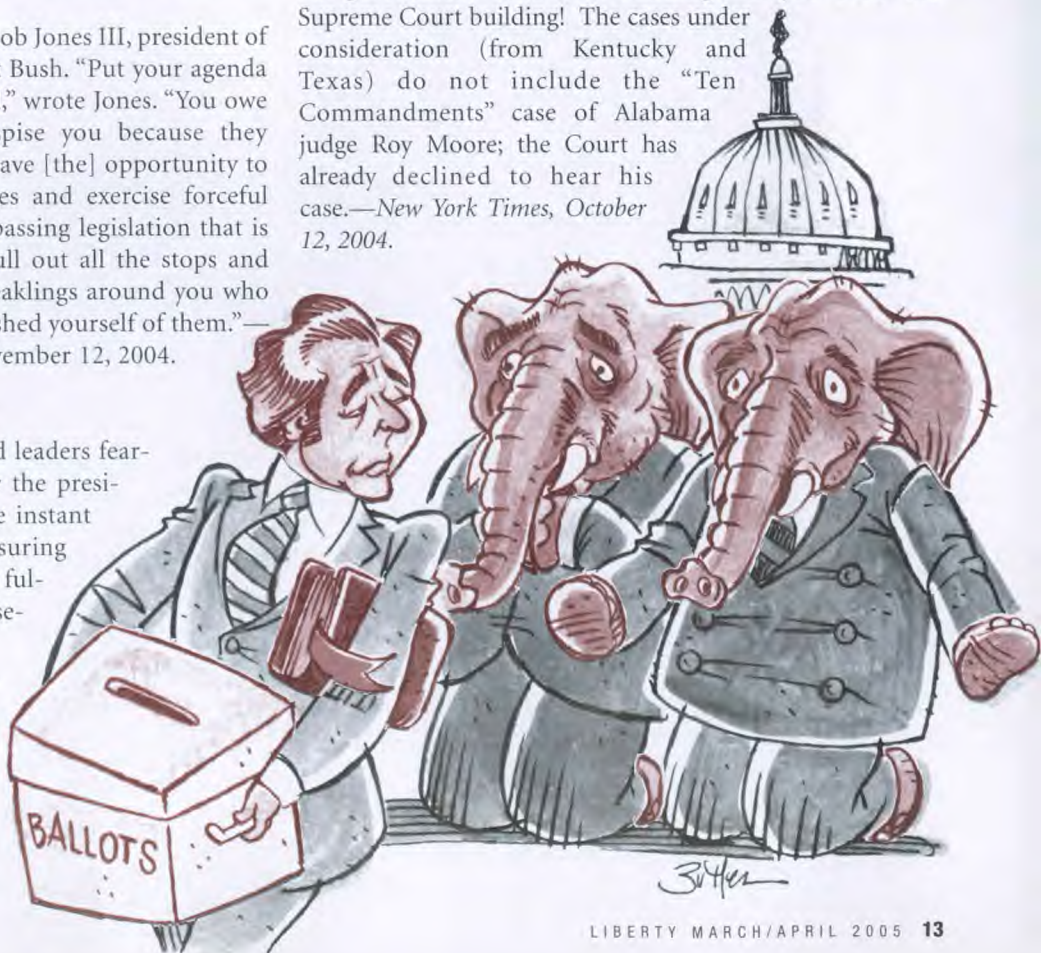
In *Slapping the Other Cheek* Maureen Dowd opines, "You'd think the one good thing about merging church and state would be that politics would be suffused with glistening Christian sentiments like 'love thy neighbor,' 'turn the other cheek,' 'good will toward men,' 'blessed be the peacemakers' and 'judge not lest you be judged.'"

"Yet somehow I'm not getting a peace, charity, tolerance and forgiveness vibe from the conservatives and evangelicals who claim to have put their prodigal son back in office.

"I'm getting more the feel of a vengeful mob—revved up by rectitude—running around with torches and hatchets after heathens and pagans and infidels."—*New York Times*, November 14, 2004.

## Supremes Look at 10

The Supreme Court has agreed to enter the fray over the legality of the Ten Commandments being displayed on government land and buildings, maybe even the Supreme Court building! The cases under consideration (from Kentucky and Texas) do not include the "Ten Commandments" case of Alabama judge Roy Moore; the Court has already declined to hear his case.—*New York Times*, October 12, 2004.





# UNITED NATIONS

*Continued from page 7*

commented on in the U.N. Charter, and specifically elaborated in the 1948 Universal Declaration of Human Rights.

On religious freedom, Article 18 is blunt and unequivocal: "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."<sup>10</sup>

Accepting this declaration sets the ground rules for religious freedom and clarifies violations. One of the primary contributions of the U.N. has been to spell out exactly what religious freedom is, and what rights exist in practice. Through the 1948 declaration, the 1966 International Covenant on Civil and Political Rights, and the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the internationally agreed norms are clearly established.

Indeed, the 1981 declaration also paved the way for the establishment of some structure for the monitoring of religious freedom and for the reporting of violations. It must still be admitted that the legal aspects are weak, since there are few sanctions or legal remedies available. However, through the high commissioner for human rights and the yearly commission and committee, at least some mechanisms are available for the disclosure of religious freedom violations, and it is important for states and nongovernment organizations to take such opportunities to expose the egregious violations of such fundamental human rights.

The fact that there are international standards and a forum for publicizing religious freedom issues is a major contribution of the U.N. that deserves appreciation. In a global context, nations that try to ignore their commitments under the international document discover that they *will* be called to account.

For example, when I challenged the representative of one extremist regime for the continued imposition of the death penalty on religious converts, I was able to point to the clear language of the U.N. declarations and covenants. Supported by the representative of a European government, we made the blunt point that nations cannot sign human rights documents, make promises and give undertakings, and not expect to be challenged when they violate fundamental religious rights.

The reporting mechanisms, particularly through the U.N. special rapporteur on freedom of religion or belief, who is an independent expert, provide great opportunities to ensure that repression of religious freedoms does not occur in secret. Countries are required to respond to such reports and requests from the special rapporteur, and while the

process that some nations term "naming and shaming" can be controversial, it does at least mean there is some knowledge of what is actually happening in religious freedom trouble spots around the world.

The availability of national representatives at the yearly six-week U.N. Commission on Human Rights<sup>11</sup> provides the opportunity for bilateral intervention—and can lead to a kind of third-party resolution between parties in religious freedom disputes. Frequently, appeal to a nation's permanent mission in Geneva or New York can be far more effective than a direct approach to the national government.

Lastly, events such as the U.N. Commission on Human Rights can give opportunity for media attention, providing focus for attention on important ideas and events. Visibility is often key in ensuring continued freedom of religion and conscience, because most dark deeds of intolerance, intimidation, and persecution are attempted in secret.

While the need for structural overhaul of the U.N.'s bureaucratic functions is clear to most, including the current U.N. secretary-general,<sup>12</sup> this realization should not be at the expense of acknowledging what has been achieved for religious freedom. The danger is that in the quest to work for a "more efficient" U.N., the vital work of protecting and promoting religious freedom will be lost in the drive for global security and effective government.

While the U.N. is far from perfect, it has clearly defined the importance and scope of religious freedom, and provided opportunities for scrutiny, reporting, and debate. In a time when such freedoms are under increased scrutiny everywhere, when security concerns are seen as "paramount," and when freedom of conscience has been called "a luxury we can no longer afford," the efforts to maintain religious freedom and human rights must be greater now than ever before.

For in the name of defending freedom, how many freedoms can be sacrificed?

**The fact that there are  
and a forum for publicizing  
contribution of the U.N.**

<sup>1</sup> Los Angeles Times, Feb. 14, 2003.

<sup>2</sup> BBC News Online, Mar. 5, 2003.

<sup>3</sup> Yellow Times, Feb. 18, 2003.

<sup>4</sup> Palestine Chronicle, Mar. 15, 2003.

<sup>5</sup> BBC News Online, Sept. 8, 2003. Note also: "Three months after the United States President, George Bush, warned that the UN might become irrelevant, Mr. Annan spoke about the value of multilateral institutions, especially the UN. 'I did warn those who were bashing the UN that they had to be careful because they may need the UN soon.'" *Sydney Morning Herald*, Aug. 1, 2003.





international standards  
religious freedom issues is a major  
that deserves appreciation.

<sup>6</sup> As examples, note the following:

"For the radical right, the 'new world order' involves a conspiracy in which the United Nations plays a central role. While it may seem odd to attribute great power to so ineffectual an organization, the right regards the UN as the instrument through which national governments will be destroyed, enabling the Antichrist to gain control of the world. Since any government associated with the UN is deemed to be part of the Antichrist plot, the national government is illegitimate. The right concludes, finally, that groups and localities must defend themselves militarily against an alien, hostile state which is seeking to uproot the Constitution in favor of a 'one-world government.'" Michael Barkun, "Militias, Christian Identity and the Radical Right," *The Christian Century*, August 2-9, 1995, pp. 738-740. Available at: [www.religion-online.org/cgi-bin/researched.dll/showarticle?item\\_id=98](http://www.religion-online.org/cgi-bin/researched.dll/showarticle?item_id=98).

"John Trochmann, a founder of the Montana Militia, constantly warns his followers that a 'world government' will soon be imposed upon the United States. Sinister United Nations helicopters will swoop down on unsuspecting citizens and establish a global regime that will destroy traditional American freedoms." Fort Worth *Star-Telegram*, Apr. 26, 1999.

"Elsewhere in Texas this year, members of a radical militia splinter group planned to attack a July 4 celebration at Fort Hood with semiautomatic weapons. The group was convinced that United Nations troops from China were training there to take over the United States. FBI agents and state police swooped down on the would-be assault squad at a campground near Fort Hood and found seven firearms, 1,600 rounds of ammunition, and a container labeled 'riot smoke.' While most federal prosecutions of extremists have been successful, heavy use of informants and conspiracy charges has met with skepticism from some juries. In February, a federal jury in Washington State found members of the antigovernment Freeman and Washington State Militia guilty of weapons charges. The jurors, however, deadlocked on broader charges of conspiracy to blow up radio towers, a bridge, and a train tunnel to stop U.N. troops from 'invading' from Canada." *U.S. News and World Report*, Dec. 29, 1997.

<sup>7</sup> Louis Freeh, testimony before the Senate Committee on Appropriations Subcommittee for the Departments of Commerce, Justice, and State, the judiciary, and related agencies on Feb. 4, 1999; [www.fbi.gov/pressrm/congress/congress99/freehct2.htm](http://www.fbi.gov/pressrm/congress/congress99/freehct2.htm); cited in [www.csis.org/burke/mb/me\\_globalterrorism\\_me.pdf](http://www.csis.org/burke/mb/me_globalterrorism_me.pdf).

<sup>8</sup> Available at, for example, <http://land.netonecom.net/tlp/ref/vk2k.shtml>.

<sup>9</sup> *Ibid.*

<sup>10</sup> [www.unhchr.ch/udhr/lang/eng.htm](http://www.unhchr.ch/udhr/lang/eng.htm).

<sup>11</sup> [www.unhchr.ch/html/menu2/2/chr.htm](http://www.unhchr.ch/html/menu2/2/chr.htm).

<sup>12</sup> Note, for example, Annan's September 8, 2003, remarks as detailed in U.N. press release SG/SM/8855 available at [www.un.org](http://www.un.org), and also his July 30, 2003, response (SG/SM/8803) to the question How do you ensure that the United Nations remains an essential stage for international security decisions? "This is the only organization where all the governments can come to discuss these issues. In our earlier discussions, I also made it clear that I am not the only one saying this. Governments are telling us, the world and their people that the United Nations is important for them and that they take its decisions seriously. Those governments are also saying, for example, 'If you want us to become involved in Iraq, go to the United Nations and get what we perceive as a United Nations mandate.' So it is an important place not just for convening power; it also brings governments together to discuss common and mutually important issues. And many governments stand by the Charter; they stand by the Universal Declaration of Human Rights. It is important to them, so we need to listen to what the other governments are saying." □



“We’ve got people pushing and shoving to be the plaintiff on this,” announced Case Western Reserve University philosophy professor Patricia Princehouse in a recent issue of *Science*.<sup>1</sup> She was not talking about another secondhand smoke lawsuit or grab for the deep corporate pockets of a hot-coffee-serving fast-food restaurateur. No, Professor Princehouse is threatening legal fire and brimstone on the state of Ohio because of a single lesson plan questioning Darwinism buried deep inside a 558-page model curriculum published by the Ohio Department of Education.<sup>2</sup>

When it comes to public policy hot potatoes, teaching evolution in public schools is up there with abortion, taxes, and civil rights. And why shouldn’t it be? Teaching Darwinian evolution to impressionable children at taxpayers’ expense represents an explosive nexus of political and religious interests. Observant readers will immediately ask why scientific interests are not included in this nexus. Maybe they should be, but the debate about how life and the physical universe originated has always cen-

tered around theological—yes, atheism is just as theological as any other theism—and political concerns. Science may inform questions about origins, but the engine that keeps the debate rolling is ultimately theology. Theologies that can’t survive in an open marketplace of ideas may resort to derailing the quest for truth by political means.

A stimulating and weighty new book, *Darwinism, Design, and Public Education*, has now been introduced into the political debate about public school science education. The editors, John Angus Campbell and Stephen C. Meyer, are not new to discussions of evolution in public schools. Their previously stated and public position is that Darwinian evolution is taught as a quasireligious orthodoxy immune to the open discussion representative of both good scientific investigation and good teaching methods. Teaching children where they came from has become one of the most tightly and incoherently regulated aspects of American public life. The current Rube Goldberg contraption of well-intentioned local, state, and federal legislation coupled to confusing and ambiguous

# Darwin & the

*Darwinism, Design, and Public Education.*

*John Angus Campbell and Stephen C. Meyer, editors.*

*Michigan States University Press, 2003, 634 pages.*

*A book review by*

TIMOTHY G. STANDISH, PH.D.





case law makes this area of public policy fit only for the courageous or foolhardy.

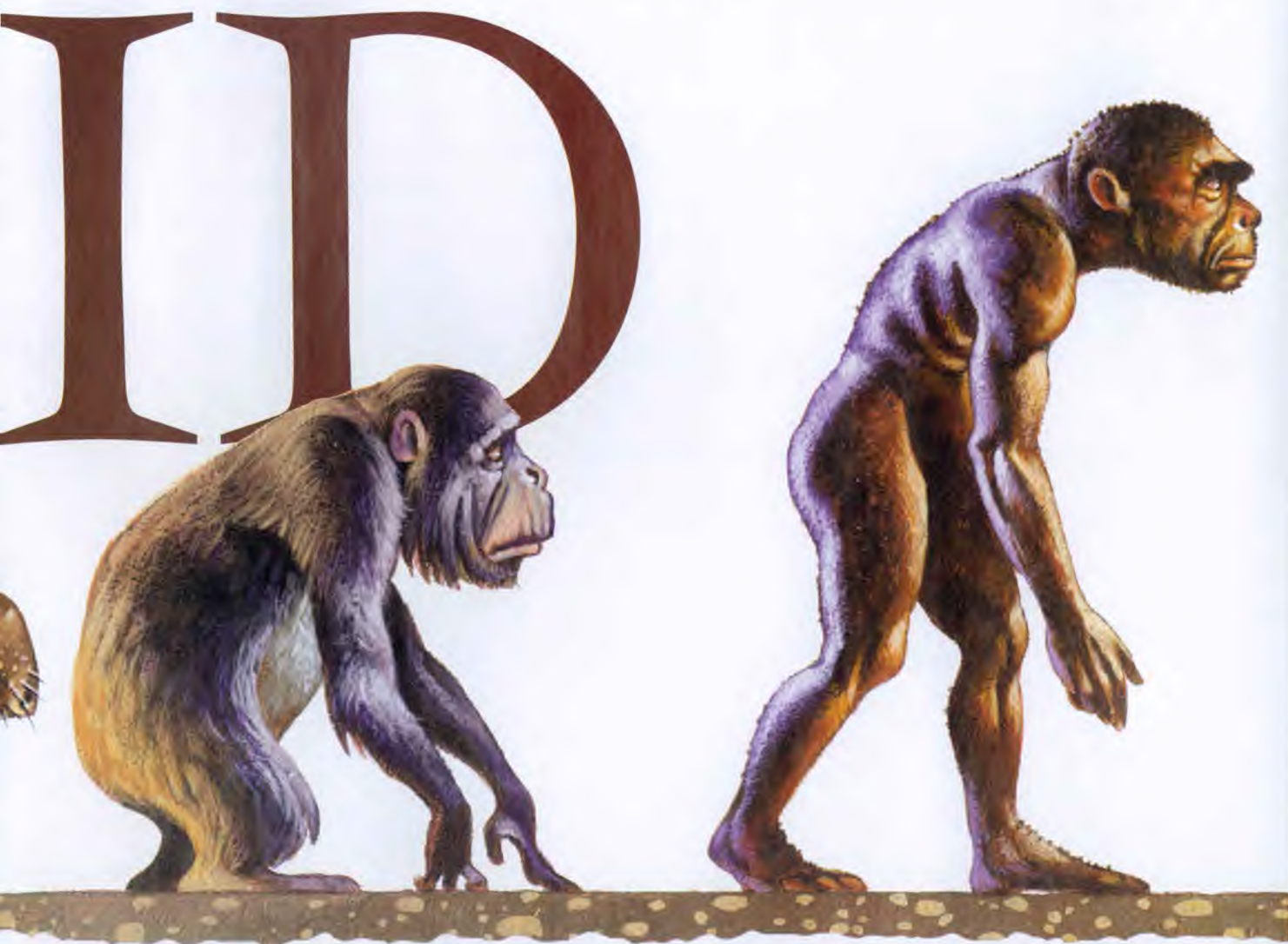
Campbell, professor of communication at the University of Memphis, and Meyer, with a Ph.D. in the history and philosophy of science from Cambridge University, are clearly not fools. Thus, entering the fray having already publicly embraced the greatest current heresy challenging the Darwinian orthodoxy—intelligent design (ID) theory—must have plumbed the depths of their courage.

Few ideas have generated such a hysterical response as ID among otherwise rational people. Recently Marshal Berman, past vice president of the New Mexico State Board of Education, among many other titles, warned America's biology teachers that ID advocates "are jeopardizing the nature of science itself, our education system, and even our form of government." Whipping up his audience further, he calls on "those who cherish our republic and freedom to take a strong stand against those who would prefer a theocracy, not in Iran or Afghanistan, but

here in the United States."<sup>3</sup> One would almost think that it is time for biology teachers to abandon their chalkboards and take up assault rifles together with the New Mexico Constitutional Militia!

In the face of such hysteria *Darwinism, Design, and Public Education* presents a valuable resource on scientific and public policy issues raised by ID. Unlike the majority of books championing either ID or Darwinism, diversity of opinion is embraced in this book. The ID case is presented with some verve and detail. But "Critical Responses," the fourth and final section in this book, is dedicated almost entirely to critics of ID. These critics constitute a sampling of well-known academics, including Bruce Webber, professor emeritus of biochemistry at California State University Fullerton, and Michael Ruse, Lucyle T. Werkmeister Professor of Philosophy at Florida State University. Across the board, the 30 authors who

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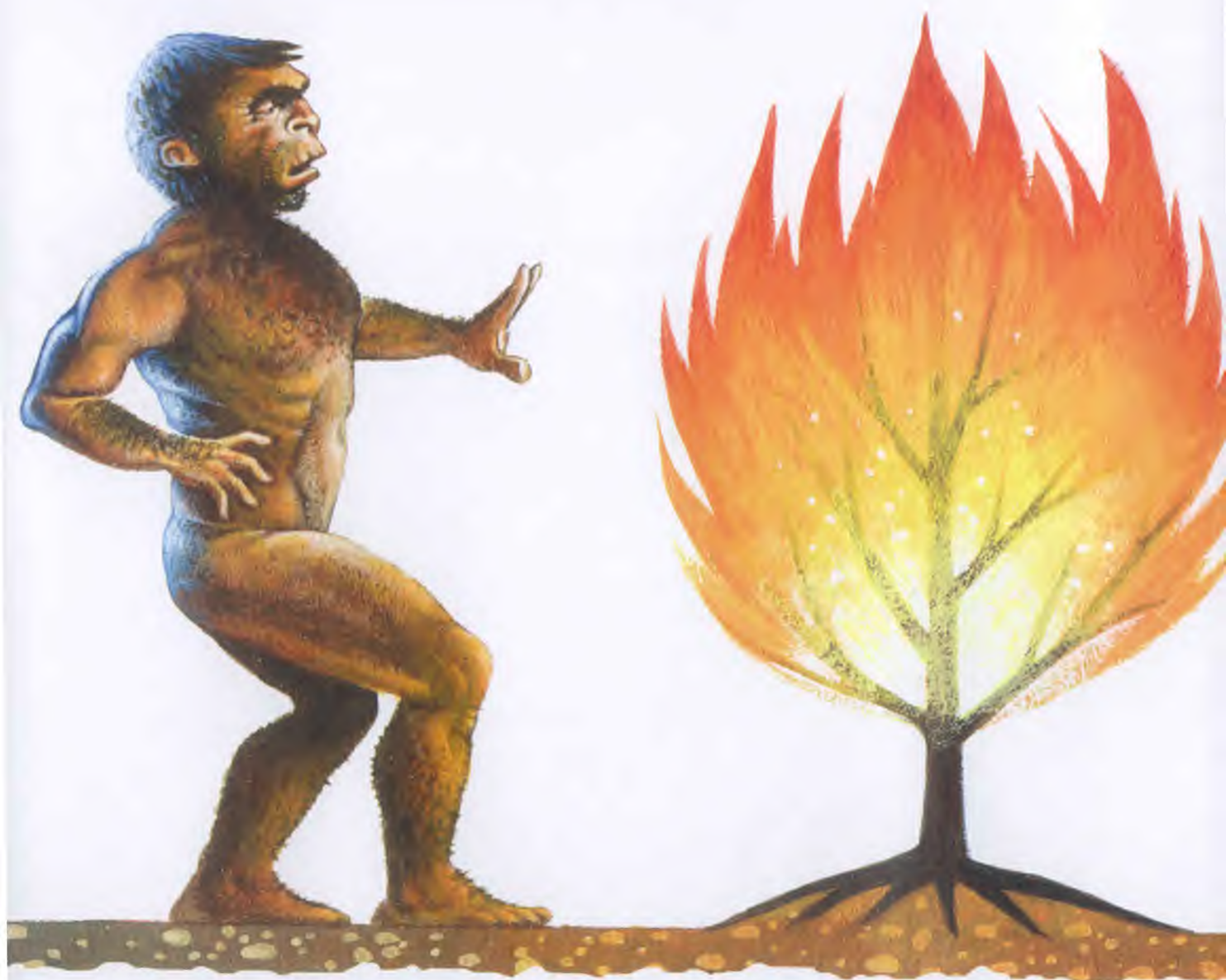
contributed to this 600-plus page volume, whether they support opening science classrooms to ID or not, represent an impressive collection of academics.

The question of design in nature represents *the* spot where the rubber hits the road for atheism. Those religions that believe in a personal God who acts in the empirical world cannot survive if no evidence of their God's action is evident in nature. They have made a claim—a testable hypothesis, in the idiom of science—that can be empirically tested. The fingerprints of God are not required to be everywhere, but they should be somewhere. If nature appears to be the result, at least in part, of intelligent causes—if ID is real—this *prima facie* evidence of God's action in nature would reasonably infer the existence of God.

This line of reasoning has traditionally been called the “argument from design,” and features in the writings

of thinkers ranging from Plato and Aristotle, to the apostle Paul, to William Paley in the eighteenth century. These great thinkers did not make their arguments in a vacuum. The Epicurean philosophers that Paul debated on Mars' Hill in Athens<sup>4</sup> did not believe gods played a role in the material world. About 55 B.C., Titus Lucretius Carus, a popularizer of Epicureanism, even outlined what looks very much like the modern theory of chemical evolution, starting with random interactions of atoms and leading ultimately to living things.<sup>5</sup> Lucretius, along with other Epicureans, argued against design, stating, “Nature can be seen to be free of overlords, everything she does is completely by herself, without help from gods.”<sup>6</sup>

Use of empirical reality to support or oppose one or another theological view has a long and storied history. The public policy question is: “How should the theolog-





ical implications of the empirical sciences be handled in public schools?" The specific question being addressed in *Darwinism, Design, and Public Education* is: "Given that the Constitution does not preclude teaching students the truth, what should be done with the apparent design in nature, especially in biology?" Charles Darwin and modern neo-Darwinists argue that the apparent design can be accounted for by the "natural" mechanism of chance genetic mutations coupled with natural selection. Darwinism removes the necessity of intelligent causes in nature, and thus the hyper-Darwinist Richard Dawkins triumphantly states, "Darwin made it possible to be an intellectually fulfilled atheist."<sup>7</sup>

Darwinism is not theologically impartial—minimally, it removes God as an immediate cause for species—and yet courts have ruled as if it is somehow religiously neutral. In contrast, creationism has been treated as a religious doctrine by the courts, and thus, invoking the need for religious neutrality enshrined in the First Amendment, the courts have banished creationism from state-sponsored education. ID undercuts this line of reasoning by asserting two things and carefully avoiding a third assertion. First, ID flatly denies the adequacy of neo-Darwinism to explain at least some examples of design in nature. For example, in his chapter in *Darwinism, Design, and Public Education*, Michael Behe gives a brief version of

his argument that certain machinelike protein complexes are irreducibly complex. Protein complexes of the type singled out by Behe must have come into being via a single large step rather than "numerous successive, slight modifications." This appears to fulfill Darwin's observation that "if it could be demonstrated that any complex organ existed, which could not possibly have been formed by numerous, successive, slight modifications, my theory would absolutely break down."<sup>8</sup>

The second assertion made by ID proponents in *Darwinism, Design, and Public Education* is that intelligent causes are logically inferred from some aspects of

nature. For example, information stored in DNA logically infers an intelligent rather than a natural cause. Meyer carefully shows where and how this argument about biological information may be used, a useful contribution; because, while this argument may seem intuitively obvious, information theory is a complex and nuanced science rife with pitfalls for the uninformed.

The assertion studiously avoided by advocates of ID is that the intelligent designer logically inferred from nature is or must be God. Clearly this is viewed as

the Achilles' heel of ID by its opponents, the vast majority of whom invoke its religious implications as a major objection to its status as science and its place in public schools. For example, Massimo Pigliucci invokes the terms "creationism," "neo-creationists," "Christian," "Bible" and "neo-creationism" in the three-sentence opening paragraph of one chapter he contributed to this book (see pp. 463-473). A chapter by Phillip Johnson, considered by many to be the father of the ID movement, states the obvious when he observes that "the greatest hurdle faced by the intelligent design (ID) movement is to overcome the prejudice that says that to attribute anything in biology to a Designer is to engage in 'religion' rather than 'science'" (see pp. 549-554). This clearly is a challenge, whether it is logical or not. However, arguments similar to this immaterial

"creationist" scare-mongering have been used against well-accepted ideas in the sciences. For example, that the big bang is somehow sympathetic to theism was used as an objection to big bang cosmology.<sup>9</sup>

Blessed with the rhetorical advantage of having the final word, critics of ID respond disappointingly in *Darwinism, Design, and Public Education*. In fact, the lack of engagement by opponents of ID is baffling. ID proponents address the objections of their opponents, but those arguing against ID use the same objections as if they had never been addressed. Bruce Webber, for example, accuses Behe of virtually ignoring "current research

*The public policy question is: "How should the theological implications of the empirical sciences be handled in public schools?"*



on self-organizing, emergent phenomena" (see pp. 455-462). Self-organization is not addressed by Behe in this book, but it is addressed by Meyer et al. (see pp. 323-402) and Meyer (see pp. 223-285). David Depew (see pp. 441-454) invokes a demarcation argument, defining science in such a way that it excludes ID, but DeWolf et al. (see pp. 59-132) and Campbell (see pp. 3-44) document the abandonment of demarcation arguments by philosophers of science. Massimo Pigliucci (see pp. 463-473) invokes gene duplication, the problems of which are pointed out by Meyer et al. Pigliucci takes things up a notch, declaring that organisms "are full of junk, nonutilized or underutilized parts" (see p. 470). This vacuous "vestigial organs" argument is addressed by Mills et al. (see pp. 207-219). Responses to pro-ID essays are rife with question-begging and straw-man arguments that never seek to address the issues raised. It is almost as if invoking "creationism" will in abracadabra-like fashion magically zap all opposition to Darwinism. Presto-poof, and away blows the opposition in a puff of smoke, leaving only lithe and lovely Darwinism clad, as it turns out, very scantily.

Michael Ruse's chapter explaining his testimony in *McLean v. Arkansas Board of Education*, the Arkansas creation-science case,<sup>10</sup> is enlightening, disturbing, and deserving of special mention. His disclosure is important, because Judge William Overton's rationale in deciding the case derived directly from Ruse's testimony. Unfortunately, his testimony as an expert witness in the trial does not reflect current thinking, or apparently his own thinking at the time (see pp. 3-44). So how does Ruse justify his fallacious testimony? With a disturbing and shameful admission that he had "Creationism of the ilk to be found in John Whitcomb and Henry Morris's *Genesis Flood* ... in my sights in Arkansas." In other words, the objective of discrediting one kind of creationism justified tainting his testimony. Although many are honest, some involved in debating

these issues are unconstrained by facts, truth, or logic.

In the strange world of public policy, good thinking does not always triumph. *Darwinism, Design, and Public Education* provides the best resource yet for those who are interested in seeing that it does. That opponents of ID would feel so unconstrained by facts or good arguments is embarrassingly exposed. On the ID side, the best current arguments are presented and seem to be

sound. *Darwinism, Design, and Public Education* illustrates the value of its central argument, that the controversy over evolutionary theory should be taught in public school science classes, not the current clumsy version of neo-Darwinian dogma. This controversy makes for fascinating reading. The strengths and weaknesses of each side are laid bare, and when both sides are allowed to make their case, one turns out to be barer than the other. If nothing else, this book serves the function of the little boy stating that the king—in this case Darwinism—has no clothes.

*Although many  
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or logic.*

<sup>1</sup> C. Holden, ed., "Disappointing News From Ohio in Random Samples," *Science* 303 (2004):1761.

<sup>2</sup> [http://www.ode.state.oh.us/academic\\_content\\_standards/sciences-boe/scisboe\\_contents.asp](http://www.ode.state.oh.us/academic_content_standards/sciences-boe/scisboe_contents.asp).

<sup>3</sup> Marshall Berman, "Intelligent Design Creationism: A Threat to Society: Not Just Biology," *American Biology Teacher* 65, no. 9 (2003): 646-648.

<sup>4</sup> Acts 17:18-32.

<sup>5</sup> Titus Lucretius Carus, *De Rerum Natura* (circa 55 B.C.), book 5, lines 416-431.

<sup>6</sup> My own translation from the same source as above. Book 2, lines 190-192: 190 *Natura videtur*

191 *Libera continuo, dominis privata superbis,*

192 *ipsa sua per se sponte omnia dis agere espers.*

<sup>7</sup> Richard Dawkins, *The Blind Watchmaker: Why the Evidence of Evolution Reveals a Universe Without Design* (New York: W. W. Norton and Company, 1986), p. 6.

<sup>8</sup> Charles Darwin, *The Origin of Species by Means of Natural Selection or the Preservation of Favoured Races in the Struggle for Life* (New York: Penguin Books, 1958 edition), p. 171.

<sup>9</sup> S. W. Hawking, *A Brief History of Time: From the Big Bang to Black Holes* (Toronto: Bantam, 1988), pp. 46, 47.

<sup>10</sup> [www.antievolution.org/projects/mclean/new\\_site/index.htm#McLean%20v.%20Arkansas%20decision](http://www.antievolution.org/projects/mclean/new_site/index.htm#McLean%20v.%20Arkansas%20decision).





One hates to generalize, but you'd think that of all possible professions, scientists would be the group to keep an open mind. That's what you'd think. But Samuel Chen discovered that at least one scientific theory—evolution—isn't open to speculation. In October 2002 Chen, then a high school sophomore, was cochair of Third Eye Open, a student organization at Emmaus High School in Emmaus, Pennsylvania, that emphasizes the importance of truth in controversial issues. They "advocate looking beyond personal prejudices and searching for facts on which to establish truth."<sup>1</sup>

By  
CÉLESTE PERRINO WALKER

# Darwin's Dictatorship

The organization members had decided to explore the issue of evolution because it was taught as science at the school, and they wanted to discuss it in more depth and look at the other side of it. Chen contacted Michael Behe, Ph.D., a professor of biological sciences at Lehigh University and author of *Darwin's Black Box*, who agreed to present a lecture titled "Evolution: Truth or Myth?" in February 2004. In his letter to the Science Department Chen introduced Behe as the speaker by listing his many professional credits, which include a Ph.D. in biochemistry from the University of Pennsylvania, presentations at a congressional hearing, presentation of his work in conferences and debates at prestigious universities such as Notre Dame, Princeton, and Cambridge. He concluded that "Dr. Behe is respected by many to be one of the world's foremost experts on evolution."<sup>2</sup> Clearly, he was an ideal candidate for a presentation on evolution. Chen considered it an honor for the school to host such an "internationally acclaimed scientist."<sup>3</sup> Wouldn't anyone?

Unaware a storm of controversy was about to break over him, Chen went about making all the preliminary arrangements: he obtained Behe's commitment as well as approval from school officials and secured the school auditorium for the lecture. The school term drew to a close with no hint of storm clouds on the horizon.

During the summer Chen called the school to check on his

arrangements and was told that the event had been canceled. "I was shocked. For one thing, it was also my graduation project. The fact that they just canceled it was a shock." The principal informed him that his adviser had resigned, and because there was no other teacher to advise the group, it had folded and the lecture was over. But he gave Chen permission to look for another adviser and promised to hold his reservations until September.

Once Chen obtained a new adviser, his reservations were reinstated. When he returned to school in August, now president of Third Eye Open, he was told that the group needed to

raise the funds for the lecture, which he expected, because as a student organization they didn't receive school funding. What he didn't expect was that the school would give him a deadline for procuring the funds two full months before the event. "We had a hundred days to raise the money," Chen said. "No other group ever had a deadline two full months before their event."

It took them just 50 days to raise the \$2,000 they needed for the lecture. "The school was kind of shocked," Chen says. "I think it shows that the community was very excited about having an internationally acclaimed scientist speak at the school."

Despite this a rumor began to circulate that the school was wasting a ton of money on Behe's lecture. Chen's adviser squashed the rumor in an e-mail to the faculty reiterating that Third Eye Open was not a school-sponsored club and received no funding whatsoever from the school. She also pointedly wondered if other clubs were subject to the same type of scrutiny about funding of their events; if anyone, for example, was going to dances and counting balloons to estimate how much things cost.

In early December of 2003 Chen approached the Science

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Department at Emmaus to ask if it would endorse the lecture. At first he received a favorable response. Teachers invited him to speak to their classes about the lecture because they felt it was a very valuable learning opportunity. Then the Science Department chair sent an e-mail stating that Dr. Behe was an intelligent design (ID) advocate, and therefore the Science Department would not endorse the lecture anymore. "He said the Biology Department had researched Dr. Behe and reported to him that he was an intelligent design advocate ... so what he was presenting couldn't be science," Chen said. He gave Chen a copy of the school's science statement, supporting the National Science Teachers Association (NSTA), which asserts, "There is no longer a debate among scientists about *whether* evolution has taken place. There is considerable debate about *how* evolution has taken place."<sup>4</sup>

At this time one of the science teachers took it upon himself to speak to the teachers in the Science Department individually about the lecture. Then "he asked the principal to cancel the entire lecture on the grounds that it was completely unconstitutional and it was only an attempt to destroy evolution," says Chen. The principal refused, saying there were no grounds.

Next, that teacher approached Chen's adviser, derogatorily referring to the student group as "Third Eye Blind" and claiming that Chen had misrepresented Behe's true stand on evolution, saying ID was antiscientific and scary stuff. Following that, he began to harass Chen, insisting that Third Eye Open also bring in an evolutionist to speak so that their "third eye" would be "open."

"As he walked away, he kept shouting for me to keep my third eye open," says Chen. "I sent him an e-mail and invited him to attend Dr. Behe's lecture and ask questions during the Q&A session. I even offered him the opportunity to comment and speak a little following Dr. Behe's lecture; he could be the evolutionist if he wanted to be." He responded, requesting five or 10 minutes to speak by himself; he didn't want to argue against the scientist.

Though initially set for February 20, 2004, the lecture was later moved to February 27 because a snow day bumped a choir practice. "The school literally told me to tell this world-

class scientist that we're going to push him back a week because a choir needed to practice," Chen recalls. Then he found out that someone had relocated the lecture from the main auditorium, an appropriate setting for an academic lecture, to the cafeteria.

The lecture did eventually occur—in the auditorium—followed by the science teacher's "rant," which, interestingly enough, Chen reports, was the only time during the lecture when religion was mentioned. "He said the lecture was based upon ignorance," Chen related, and after insulting the guest speaker, the science teacher left.

The controversy didn't end with the lecture, as Chen hoped it would, but continued over sales of the videotape that Third Eye Open had commissioned of the lecture. When the one science teacher learned of the videotapes, he objected, citing copyright violations. Because arrangements for the teacher's rebuttal comments were made so late, Chen didn't have permission to release them, so he attempted to have them omitted, but the company refused, saying it would be illegal, and forwarded his remarks to the teacher, who then accosted Chen in the hall, screaming that he never said the tapes were illegal. He said removing his remarks was censorship, and he would take action against Chen.

"At this point I was going to be sued if I kept him on the tape because it was copyright violation," says Chen, "and if I took him off the tape, he was going to sue me for censorship."

Chen says the teacher wouldn't stop harassing him, pulling him aside in the halls to yell at him. Finally his parents were forced to go see the principal and demand that the teacher not be allowed to speak to their son again. "The school ordered him to refrain from speaking to me," Chen says. Because of the intense stress he endured throughout the course of the controversy, Chen's health declined, and he collapsed several times.

An article about Chen's difficulties hosting the lecture sparked much debate in chat rooms on the Internet and revealed the cutting antagonism between evolutionists and creationists and ID advocates. "If," wrote someone identified as Right Wing Professor, "as it is stated, this was an after-

*Scientists should  
behave as scientists  
and be willing to  
question their own  
assumptions and meet  
criticism with  
reasoned debate rather  
than with insult,  
caricature, and appeals  
to authority.*



school activity, then the school had no business interfering. Of course, it would be unwise to take anything in a creationist article at face value, including the words 'the' and 'a.' To which MEGoody retorted, "How unbiased of you. Excuse me, your agenda is showing." MCG1969 provided a ray of sanity, posting, "If the school allows the use of school facilities after school hours for extracurricular student groups, then it cannot discriminate between them based on content."

"It was certainly inappropriate of the school to do that," commented Brian Fahling, senior trial attorney and senior policy adviser for the American Family Association Center for Law & Policy, who advised Chen following his ordeal. "If they did it again, it would transgress, in our estimation, constitutional grounds because then we would see a pattern developing. A one-time abhorrent event may escape the clutches of a federal court lawsuit, but if you do it again after being notified, then

Darwinian evolution suggests that something other than science is driving their beliefs."

As Thornton goes on to explain, those beliefs, oddly enough, are religious. "For many defenders of evolution, Darwinism indeed is part of a religious system whose tenets are as much a consequence of

faith as of reason. This religion is atheism, a belief that arises not from evidence but from faith, as any sophomore philosophy major can tell you. The first principle of atheism is materialism: the belief, equally unproven by science, that all reality is material and so everything must be explained by material causes and forces blindly following the laws of physics."<sup>7</sup>

Samuel Chen says his experience with Darwin's dictatorship hasn't deterred him. "I think that evolution is totalitarianism, it's dictatorship, it's tyranny. And I feel there are no First Amendment rights for students anymore in schools. I don't want to see any other student go through what I



you've established a custom and practice." Though given the opportunity, the school offered no comment on the incident.

The fact that Emmaus's Science Department got so hot under the collar over an after-school speaker who advocated intelligent design makes you wonder what exactly they're so defensive about. Could it be, as Bruce Thornton, professor of Classics at Cal State Fresno, observed, "Scientists should behave as scientists and be willing to question their own assumptions and meet criticism with reasoned debate rather than with insult, caricature, and appeals to authority. Skepticism is science's most valuable tool; its absence among too many advocates of

had to go through. I really want this wall to fall."

<sup>1</sup> Undated letter written by Samuel Chen to the Emmaus High School Science Department.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> Statement of National Science Teachers Association, Samuel Chen's file.

<sup>5</sup> Chat room posts taken from: [www.freerepublic.com/focus/f-news/1192551/posts](http://www.freerepublic.com/focus/f-news/1192551/posts).

<sup>6</sup> [www.californiarepublic.org/archives/Columns/Thornton/20040813ThorntonUncommon.html](http://www.californiarepublic.org/archives/Columns/Thornton/20040813ThorntonUncommon.html).

<sup>7</sup> *Ibid.*





I start by making it clear that I do not countenance any person's failing to comply with a lawful court order. Second, I do not believe that either Judge Myron Thompson or the Eleventh Circuit Court of Appeals panel had any choice but to render the decisions that they did in view of the controlling precedents of the Supreme Court of the United States. I also find no fault in the decision of the Alabama Court of the Judiciary to remove Alabama chief justice Roy Moore from office. While I agree with some of his statements on how the law has developed, I feel that his methods have been a distraction from the real issue.

I do not know whether Judge Moore is a demagogue or merely a West Point graduate who has accepted the ACLU's challenge. I do know that the ACLU helped create his celebrity and his political platform by its nit-picking. It chose to have relatively disinterested parties make an issue of newly elected circuit judge Moore's placement at his bench of a small Ten Commandments plaque that he had personally crafted. The rest, as they say, is history.

I am continually intrigued by the fact that so little attention is paid to how the so-called law of separation of church and state has been developed. As is often the case, court decisions based upon result orientation, not the language of the Constitution, are accepted without further examination of the methods by which the decisions are reached. The September/October 1998 issue of *Liberty* published my article called "Ku Klux Icon," in which I stated that much of the law in this area was fashioned by Supreme Court justice Hugo Black, for whom my federal courthouse in Birmingham, Alabama, is named. I suggested that his Ku Klux Klan background was an example of the political expedience that prevailed in his career, and that his membership in that organization likely influenced his opinion in *Everson v. Board of Education*, which redefined (or rewrote) the First Amendment term "establishment."

Black purported to rely on the Fourteenth Amendment's "incorporation" of the First Amendment's establishment clause in writing his opinion in *Everson*. His *Everson* opinion reflected the typical historical inaccuracies and selectivity that have governed in this area. In the earlier article I mentioned the law review articles of two Stanford University law professors, one a Pulitzer Prize winner who, in 1949 when some objectivity still existed, charged Black with distorting history in order to read into the Constitution provisions he thought ought to be there. I also noted that the present interpretation of the establishment clause began in the 1930s as part of the "secularization hypothesis" of the intellectual elite.

For the rest of the "Story," we can go back to 1833. There is probably no Supreme Court justice who is more widely recognized for his jurisprudential scholarship than Justice Joseph Story. If not one of the Founders, he was a "founding" Supreme Court justice. Justice Story was relied upon by John Marshall to render scholarly expositions of the law. Story was a Massachusetts-

# The Re "St the





# Story

By  
ROBERT  
B. PROPST

born, committed supporter of the Jeffersonian Democratic-Republican party. He was appointed to the Supreme Court in 1811 by Madison. Jefferson had urged Madison to appoint a member of his party to offset the Marshall-led Federalists on the Court. Jefferson opposed Story's appointment, but primarily because Story had opposed Jefferson's ill-advised Embargo Act. Story became "devoted to a liberal and Nationalistic interpretation of the Constitution and to the maintenance of National Supremacy" (Charles Warren, *The Supreme Court in United States History* [1928], vol. 1, p. 419).

In his *Book of Legal Lists* (1997), professor Bernard Schwartz demonstrated that he generally had little regard for those who have questioned the recent establishment clause law. He condemned Judge Hand's *Jaffree v. Board of School Commissioners* opinion as being the second-worst non-Supreme Court opinion of all time. He elevated Justice Black to the eighth greatest Supreme Court justice of all time. On the other hand, Schwartz was compelled by history to rank Justice Story as the fourth greatest Supreme Court justice of all time. Not only did Schwartz rank Story highly as a Supreme Court justice; he ranked Story's *Commentaries on the Constitution of the United States* (1833) as the third -best law book of all time. We seldom see, however, a discussion of this great justice's views of the establishment clause.

One of the key points that Story makes is that the governmental fostering of religion had never been considered to be against the "principles" of "republican liberty." This recognition flies in the face of the recent Supreme Court holdings that the Fourteenth Amendment due process "liberty" clause creates a high and impregnable wall of separation between church and state. This is significant because Black and others have relied on the liberty clause to justify their revised establishment law.

A few quotes from Justice Story's great *Commentaries* will illustrate the true picture:

"Indeed, the right of society or government to interfere in matters of religion will hardly be contested by any persons, who believe that piety, religion, and morality are intimately connected with the well being of the state, and indispensable to the administration of civil justice. The promulgation of the great doctrines of religion, the being, and attributes, and providence of one Almighty God; the responsibility to him for all our actions, founded upon moral freedom and accountability; a further state of rewards and punishments; the cultivation of all the personal, social, and benevolent virtues;—these never can be a matter of indifference in any well ordered community. It is, indeed, difficult to conceive, how any civilized society can well exist without them" (§ 1863).

"Now, there will probably be found few persons in this, or any other Christian country, who would deliberately contend, that it was unreasonable, or unjust to foster and

*Robert B. Propst is senior United States district court judge, Northern District of Alabama, Anniston, Alabama.*



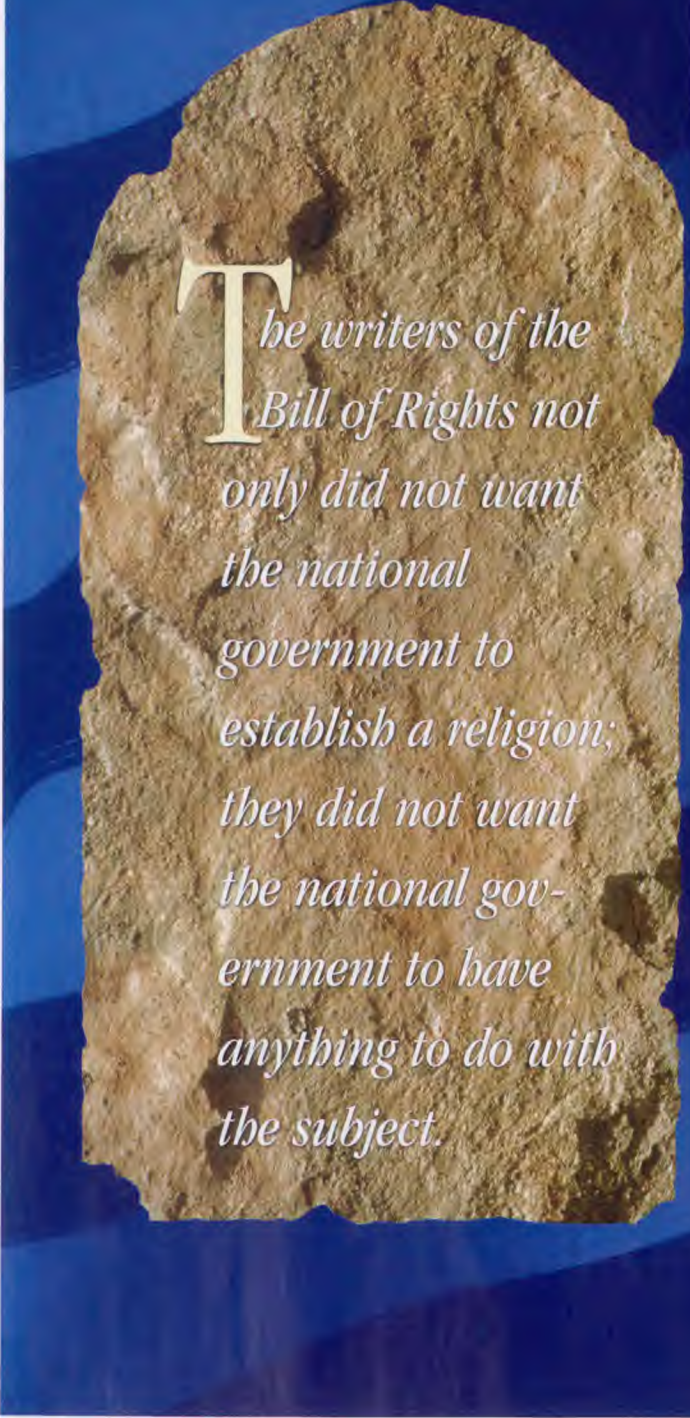
encourage the Christian religion generally, as a matter of sound policy, as well as of revealed truth. In fact, every American colony, from its foundation down to the revolution, with the exception of Rhode Island, (if, indeed, that state be an exception,) did openly, by the whole course of its laws and institutions, support and sustain, in some form, the Christian religion; and almost invariably gave a peculiar sanction to some of its fundamental doctrines. And this has continued to be the case in some of the states down to the present period, *without the slightest suspicion, that it was against the principles of public law, or republican liberty*" (§ 1867). (Emphasis added.)

"Probably at the time of the adoption of the Constitution, and of the amendment to it, now under consideration, the general, if not the universal, sentiment in America was, 'that Christianity ought to receive encouragement from the state, so far as was not incompatible with the private rights of conscience, and the freedom of religious worship.' An attempt to level all religions, and to make it a matter of state policy to hold all in utter indifference, would have created universal disapprobation, if not universal indignation" (§1868).

"It yet remains a problem to be solved in human affairs, whether any free government can be permanent, where the public worship of God, and the support of religion, constitute no part of the policy or duty of the state in an assignable shape" (§1869).

"The real object of the amendment was, not to countenance, much less to advance Mahometanism, or Judaism, or infidelity, by prostrating Christianity; but to exclude all rivalry among Christian sects, and to prevent any *national ecclesiastical establishment*, which should give to an hierarchy the exclusive patronage of the national government." (Emphasis added) (§1871).

The § 1871 commentary is absolutely consistent with a letter from Thomas Jefferson to Samuel Miller quoted in my earlier article. The Miller letter is seldom mentioned by those who quote Jefferson. The emphasis has been on a selective quote from Jefferson's letter to the Danbury Baptists. In the minds of many, Justice Black's language has replaced the actual language of the establishment clause, which reads, "*Congress shall make no law respecting an establishment of religion.*" We seldom see the word "establishment" used in more recent cases, other than as a designation of the title of the clause. It is never mentioned that "establishment" was intended to apply to "a church recognized by law as the official church of a nation or state" (Merriam-Webster's Collegiate Dictionary, Eleventh Edition, defining "established church". The clause, as written, refers to *Congress* and not to any individual public official. It refers to making a *law* and not to the individual acts of public officials. The word "respecting" was included because the writers of the Bill of Rights not only did not want the national government to establish a religion; they did not want the national government to have



*The writers of the Bill of Rights not only did not want the national government to establish a religion; they did not want the national government to have anything to do with the subject.*

anything to do with the subject. Since the *de jure* word "establishment" created problems for the separatist philosophy advocates, they now use the *du jure* words "entanglement and endorsement." The only words of the establishment clause that are left are "shall make ... no ... an ... of religion."

Since my 1998 article, two distinguished professors have written books, the combination of which supports all that I wrote in my article regarding the career of Justice Black and his misinterpretation and misapplication of the establishment clause and, of course, has added much more. The two books are *Separation of Church and State*,



by Philip Hamburger, University of Chicago professor of Law (educated at Princeton and Yale), published by Harvard University Press in 2002; and *Thomas Jefferson and the Wall of Separation Between Church and State*, by Daniel Dreisbach, an American University professor (educated at the University of Virginia and Oxford University), published by New York University Press in 2002.

Here are just a few of the many facts that might stimulate the truly interested to read the two books:

1. Justice Black was a member of the Ku Klux Klan and was effectively elected U.S. senator by the Klan in 1926.

2. While in the Klan he "became Kladd of his Klavern, the officer who initiated new members by administering the oath about 'white supremacy' and 'separation of church and state'" (Hamburger, p. 425).

3. In 1947 he became the first U.S. Supreme Court justice to use the phrase "high and impregnable wall of separation of church and state" to replace the establishment clause.

4. Not being able to find his "high and impregnable wall of separation of church and state" language in the Constitution, Black selectively quoted language from a letter by Thomas Jefferson, who was out of the country when the Constitution and Bill of Rights were written, and ignored other writings of Jefferson stating that the establishment clause applied only to the "national" government and not to the states. As Justice Story stated, establishments of churches by the states were not considered violations of fundamental liberties so as to later implicate the due process liberty clause of the Fourteenth Amendment.

5. Professor Dreisbach states that by "extending its prohibitions to state and local jurisdictions, Black turned the First Amendment as ratified in 1791, on its head. Incorporation, in short, destroyed a vital purpose for which the First Amendment (and Jefferson's 'wall') had been written" (pp. 125, 126). Professor Dreisbach asserts that even Jefferson viewed the establishment clause as being designed to protect the state-established churches.

6. An admiring biographer of Justice Black has stated that "a more formally irreligious man would have been hard to find" (Roger K. Newman, *Hugo Black: A Biography* [Pantheon Books, 1994], p. 521).

7. The Fourteenth Amendment was ratified in 1868. Justice Black premised his "separation" philosophy as to the states on that amendment. Recognizing, however, that the Fourteenth Amendment had not dealt with the issue of church and state, "in the 1870s and 1880s anti-Christian secularists organized a national campaign to obtain a constitutional amendment guaranteeing a separation of church and state. In their constitutional objectives the Liberals failed spectacularly, but they contributed to the development of the separation of church and state in ways still evident in American culture and law" (Hamburger, p. 287).

"Believing that American constitutions did not fully guarantee the separation of church and state, the Liberals argued that the U.S. Constitution needed amendment" (*ibid.*, p. 296).

Their proposed amendment included:

"Section 2. No State shall make any law respecting an establishment of religion" (*ibid.*, p. 296).

"Such an amendment was necessary because, according to Liberals the U.S. Constitution had not guaranteed a separation of church and state" (*ibid.*, p. 300).

The Blaine Amendment proposed to Congress in 1875-1876 would have applied an establishment clause to the states. It failed to pass.

"Although during the mid-1880s Liberal newspapers and organizations continued to demand a constitutional amendment ensuring separation of church and state, the heady days of 1876, when an amendment seemed a real possibility, were long past" (*ibid.*, p. 334).

"After the failure of the Liberal and Protestant proposals for a constitutional amendment, advocates of separation focused on constitutional interpretation. They quickly forgot about arguments that an amendment was necessary and claimed instead that American constitutions had already, since their inception, fully guaranteed a separation of church and state" (*ibid.*, p. 335).

Their efforts culminated in 1947 with Justice Black's judicial "amendment." The sophists would have been proud.

I urge the readers of this magazine to read Justice Story's *Commentaries* and the two books. I realize that the Black doctrine has been accepted by all the "intellectuals" and many others who wish to be judged as being chicly progressive. As the apostle Paul recognized at Athens, there is little chance to persuade the intellectuals. I do have hope for others. We should not be blinded as to the real issue by an unacceptable decision to violate a court order.

*Judge Propst presents elemental aspects of the church-state debate. In defying federal law, Judge Roy Moore showed a willingness to advance a states' rights argument that predates the Civil War and that arguably does include an original allowance for the states to protect their severally favored churches. But surely federalism has gained the day, and any such early allowance was a recognition of the obstinacy of the states on the topic. We have much evidence, though, of the clear intent of the framers of the Constitution to keep religious institutions at arm's length and to keep the state out of church business.*

*However, Judge Propst is touching on the truism that empowers some who would sweep away all vestiges of the wall of separation: the new republic was a profoundly religious society and presumed to remain that way. There was no antagonism to religion in the Founders and in the state documents. Editor.*





### Discrimination Hurts

I just wanted to let someone at *Liberty* know that my family has been the victim of religious persecution. We tried to enroll our daughter in a local "Christian school" and were refused because we were members of the Seventh-day Adventist Church. I cannot begin to tell you what this has done to our faith. This is not a small matter to us. We love God and our daughter. We are not so sure how we will hold up under stronger persecution. We just wanted to let someone know that the workplace is not the only place the people of God are being hurt.

JOHN, JOYCE, AND JENIEMARIE  
BOEHM  
Allentown, Pennsylvania

*This happens quite frequently, even in the United States of America. Two years ago I wrote an editorial about a similar incident involving my son. We need to defend against all religious prejudice. It is a curiously structured prejudice that will even turn down the opportunity to indoctrinate the children of other denominations.* Editor.

### Values and Conditioning

At 85, I get a real, positive boot out of your magazine. I have watched, with great interest and some joy, the evolution of "values" in America.

I was especially arrested by Mark Kellner's thoughtful book review on *religious freedom* (Mar./Apr. 2004). I couldn't help wondering when he discussed the marshaling of "public opinion" against any religious group as rendering "'free exercise' ... a mockery." I couldn't help wondering if anyone notices how the impact of "health and home" renders *religious freedom* a mockery ... not only here in America, but everywhere.

I served for 33 years in the U.S. Air Force. I have found during my years of service that not only here, but in the Orient, the Middle East, Europe—everywhere, people grow up believing in pretty much what they are conditioned to believe at home. Nowhere did I find parents exploring a variety of the prevailing spiritual notions with their children and giving them the freedom of choice.

Hang in there!  
HEATH BOTTOMLY  
Colonel, USAF (Ret.)  
Idyllwild, California

### Two Sides or No!

Your September/October (2004) issue will almost certainly leave many minds wondering what the function of the magazine is. The issue's treatment of the subject of gay unions is so lengthy and overwhelmingly one-sided as to defy a simple letter-to-the-editor response.

Be honest, *Liberty*: wouldn't a more logical and balanced approach have included at least one article on the opposing side of your argument? Despite seeking to lend credibility to the articles by some extensive footnoting, you must surely be aware that, even in relatively conservative Christian circles, there are two sides to this topic, or it would not have become the controversy that it is today. Furthermore, we feel that the sometimes flawed logic, tired myths, and half-truths you expressed do not belong in a magazine of the caliber of *Liberty*.  
"FRED"  
Sarasota, Florida

*Liberty is not a neutral sounding board for religious freedom issues. We make every attempt to be intellectually balanced on issues, but we do not routinely give equal billing to every pro and con. Surely the very*

*liberty we proclaim gives us the right to present a view some of our readers might disagree with. It pains me still that a "relatively conservative" Christian acquaintance of mine declared publicly that he would "bury" that September issue—apparently ready to deny others the religious liberty—and, indeed, the freedom of speech—that he and others wish to uphold.* Editor.

### Wake Up to the Threat

As a lawyer, I appreciate receiving *Liberty* magazine. I need to say, however, it's time you folks woke up and realized that atheism and, for that matter, agnosticism have achieved a level of being yet another religion and, in their demands for a cleansing of any mention of God or religious considerations in public activities or symbols, have themselves encroached upon the neutrality that government is supposed to have in its administration of matters involving church and state.

The game book has changed, and it is important for all, as distinguished spokespersons for this forum, to take heed and realize where the real threat is coming from.

ROBERT E. REPP  
West Linn, Oregon

*Yes, there is a real threat from a militant antireligious movement in the United States. There is also a real threat from militant religionists who have narrow sectarian agendas. We must protect against both to maintain true and full religious freedom.* Editor.

### Babylon

As always, I enjoy the intellectually stimulating content of *Liberty*. The most recent bimonthly issue was no different. I especially

enjoyed Tony Campolo's article "Dealing With Babylon." My audible affirmations of his positions came often as I read. His points on the Ten Commandments debacle, prayers in school, and the danger of the faith-based initiatives were well thought through and most convincing.

The place I found disagreement with Mr. Campolo was on his identification of Babylon as any "political economic system." He said you would come to this conclusion if you read the "biblical book of Revelation carefully." I would contend that if one did indeed read carefully John's visions contained in the book, they would conclude that Babylon is the church apostate. Babylon, according to Revelation 17, is the woman on the beast. A woman in prophecy is the church, depicted as either loyal or disloyal to God. In the case of Babylon it is describing the church as disloyal to God by becoming joined with the state.

KEVIN JAMES  
Reno, Nevada

### Divisive Dismantling

Just a few lines to let you know how much I look forward to each issue of your magazine. I view it as a breath of fresh air, particularly in an era when our governmental leaders are attempting to dismantle our Constitution and Bill of Rights, and continue the divisiveness that separates denominations of deists, theists, and pantheists from one another and from nonthreatening nonbelievers.

DEAN RAY  
Lake Wales, Florida

### Uphold Marriage

I am a longtime reader and admirer of your excellent magazine. I was tremendously disappointed in your recent issue dealing with sex, law and politics.



While I agree with your statement that discrimination on the basis of homosexual desire is reprehensible, I cannot agree with your position that a faithful, loving, monogamous, and long-term relationship between two people of the same gender is not worthy of being upheld. I would point out to you that it is not "marriage" that brings children into the world; it is sex. It is not "marriage" that raises them; it is dedicated and principled parents.

Yes, I concur that the ideal place to raise children is in a loving and nourishing two-parent home with a mom and a dad who love and honor each other. But the fact of the matter is that there really aren't very many households like that. After 29 years as a lawyer, I have seen countless homes racked by divorce and unfaithfulness, hundreds of irresponsible parents who do not fulfill their responsibilities to their families, and children who are scarred for life by living in such an environment. And I have seen two articulate and intelligent women who have lived a life of faithfulness to God and to each other, and who have adopted two children and are raising them in a loving, stable home.

Marriage? A rose by any other name is as sweet. Call it what you want. Imitation is the highest form of flattery. If two persons of the same gender voluntarily submit themselves to the same sort of commitment that heterosexual couples do, give them the opportunity. And keep the church out of it. JAMES R. STEADMAN, ESQ. Girard, Pennsylvania

*The churches, or at least those true to the moral teachings of Holy Writ, would be remiss if they did not speak to issues such as this. And for the gay agenda to include the*

*destruction of a deeply held paradigm would surely seem to be an infraction of religious liberty.* Editor.

#### Fresh Air

I am a 76-year-old male enlisted veteran of WWII. Thanks to the GI bill, I thereafter became a lawyer and member of the New Jersey bar. During the past 50 years I practiced mostly criminal law as a judge, prosecutor, and defense counsel.

I enjoy reading your magazine. It is a breath of fresh air between the dark clouds of extremism from both left and right. I would hope that persons of all faiths, or with none, could read it and understand the logical conclusions set forth.

OWEN N. EISENBERG  
South Dennis, New Jersey

#### Spreading Freedom and Democracy

I would like to take issue with the article "Voting as a Matter of Faith" (Nov./Dec. 2004) by David Domke.

Domke listed four characteristics that indicate that the Bush administration is blending religious fundamentalism with political language. One point he made is that the administration makes "declarations about the will of God for America and for the spread of U.S. conceptions of freedom and liberty." But blaming an American president for desiring to spread freedom and liberty would be akin to blaming Evangelical Christians for assuming the right to spread their conception of salvation. Also, as is evidenced in our Declaration of Independence, it has always been the goal of the American experiment for the government to reflect the "will of God," especially when it comes to freedom and religious liberty. I don't see how this is a contradiction to liberty. Even if this perception of God differs with other understandings, it allows for

the practice of those understandings, so it is not a threat to them. On the contrary, it is necessary for their prosperity.

Domke related Bush's statements to post 9/11 policies, but I believe that Bush is actually right in saying that the only effective weapon against radical Muslim terrorism is the spread of freedom and democracy, because terrorism is caused and fermented by a lack of freedom and by religious intolerance.

PAUL FILINOVICH  
Downers Grove, Illinois

*This aspect of our present state/religious paradigm is subject to much interpretation. However, there seems little argument that the present administration has moved boldly across previous lines of church/state demarcation—the battle is, rather, over whether that demarcation was correct. The spread of freedom and democracy is no doubt a weapon in itself—it remains to be seen whether military measures are valid in advancing this, and if they can ever disarm terrorists' inclinations.* Editor.

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#### DECLARATION OF PRINCIPLES

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

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

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

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





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# N<sup>the</sup> Next Wave

The wave first appeared as a dark shadow on the horizon that separates open sky from the deep. As it came closer some noticed that water levels on the beach had dropped precipitously. A few headed for the hills and safety. Some actually went out on the reefs to catch the stranded fish flapping on suddenly dry land. Most paid little attention till it was too late.

The devastation from December's Tsunami is almost without parallel in living memory. You need to look at man-made killings in places like Auschwitz, Phnom Penh, and Kigali to evoke the same shock. But even those blots on history cannot equal the scale of the swath of despair that remained after the wave-front of the overflowing sea.

So many people washed away by the cataclysm! Entire villages "taken away" in Sri Lanka, Indonesia, Myanmar, and even in Somalia. Complete islands submerged in a moment off India and in Indonesia. Beach promenades in India turned into killing zones that looked like scenes from *The Day After Tomorrow*. And on Thai

beaches thousands of European tourists vanished, along with even more Thais. No wonder some newspaper headlines called it a tragedy of "biblical proportions."

What to make of it? Certainly tears are called for. And beyond the tears a recognition that the seismic shift that produced the Tsunami will in its aftermath continue to shake up the status quo—that the larger Tsunami may yet be to come in the relations between nations, at how we look at both man and God.

*Newsweek*, in an article titled "Countless Souls Cry Out to God" (1/10/05), examined how peoples of all faiths in the affected area might deal with the tragedy. The article pointed out that Hindus, Buddhists, Muslims and Christians are asking "Why us? Why here?" And they look to their faith for some of the answers.

This has implications far beyond the introspection suggested by the faith challenge. It is not inconsequential that Sri Lanka is in the grip of a long-running civil war that has pitted Buddhists against Hindus. A subtext to the Myanmar repression is restriction of religious expression and the aspirations of Christians. India of late has

been troubled by violence between Christians and Hindus, and Hindus and Muslims—and in fact the violence of partition and the continuing antagonism between India and Pakistan is essentially a religious war. And Indonesia, while almost monolithically Islamic, has ongoing violence between Christians and Muslims in places such as Ambon; and some of the most militant of Islamic Jihadis are in Aceh, where the Tsunami struck most severely.

We, and most of the world, are mobilizing our resources against a global phenomenon of terror that manifests itself by violent acts of death and destruction that have everything to do with religious faith. But the real story might not be the burning towers or terrorist training camps—it might be in tectonic shifts in how societies view religious faith and create shared moral values.

I confess to being a C-SPAN and public radio junkie—in part because of long commute times. And I have been impressed at the deliberate shift, especially since





9/11, in how we Americans see other human beings. There were the statements by key administration officials that we would not be bound by the Geneva Conventions in this new war. There were the knowing winks as we reported on how many we had killed or detained. There was the suspension of legal norms for the expediency of dealing with people always presumed to be exactly what we feared, and therefore without protection or consideration. There were the ecstatic claims of how humane our bombing was, and little questioning of the "collateral damage." There were the prison abuses which too many still see as a public relations problem rather than a dark window into our changing soul. In confirmation hearings I still hear weasel talk of the necessity for what can only be torture. I hear

loose talk, dignified by pseudo-law that we are above accountability because our cause is just. I hear the call-in comments of intolerance, hate and growing inhumanity. And I can almost see the dark line rearing up on our horizon.

What is manifestly missing from most of the public discourse since 9/11 is the set of assumptions best expressed in the Declaration of Independence and the Bill of Rights.

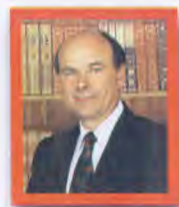
We wanted to be free because we saw it the right of created beings. We recognized rights that all human beings have because there is a Creator God.

This magazine has argued long and hard that religious liberty is most secure in a secular state that stays out of the religion business—

as mandated by the Constitution. But we never argue that this secular United States is without moral, indeed religious, assumptions. The Constitution does not express Darwinian assumptions! It is not a construct of expediency. Or a Bismarckian vision of the state. No! It rests solidly on a vision of us as moral beings owing to others what God has created us all with—

inherent rights to dignity, respect and with spiritual needs that we must pursue unhindered by others. We are forgetting that Geneva Conventions or other rights are "right" not because they may protect our own troops in a sort of "quid pro quo," but because they are an imperfect wartime reminder of the moral sanctity of all human life; no matter how debased by violence or hate. We are forgetting

that the answer to declining public morality lies not in religious war—not in other's jihads or our home-grown heavy-handed political version—but in spiritual renewal. And in that direction, with its attendant concern for the welfare of all, lies the ultimate weapon against religious intolerance.



**Lincoln E. Steed**  
Editor,  
*Liberty Magazine*





# No Doubt About Separation

It is my firm belief that there should be separation of church and state as we understand it in the United States—that is, that both church and state should be free to operate, without interference from each other in their respective areas of jurisdiction. We live in a liberal, democratic society which embraces wide varieties of belief and disbelief. There is no doubt in my mind that the pluralism which has developed under our Constitution, providing as it does a framework within which diverse opinions can exist side by side and by their interaction enrich the whole, is the most ideal system yet devised by man. I cannot conceive of a set of circumstances which would lead me to a different conclusion.

—JOHN F. KENNEDY, in a letter to Glenn L. Archer,  
February 23, 1959 (when a senator, before becoming president).