

# LIBERTY

NOVEMBER/DECEMBER 2005

## Faith, Freedom, and Justice Sonia Sotomayor





## GODS AND GENERALS

*State actions are not automatically to be sanctified as inherently godly.*



Old World/New World disparity can be as different as treasured paintings on a crumbling church wall in Florence, Italy, and bulldozers leveling yet another graffiti-festooned 1970's-era inner-city project in some big U.S. city. The Old World/New World split this magazine often deals with is one of escape: a spectrum of immigrants—refugees—fleeing religious intolerance and warfare. It is a wonderfully comforting historic image. And, yes, it's true. But not true enough for us to have escaped history and its discomfiting realism.

Sure, we sort of remember that the initial conquest and settlement in South America had much of the flavor of Old World religious wars. If anything it was worse. Whole populations were judged to be non-human savages, unworthy of salvation, and their civilization corrupt and due to be pulled down. It was no accident that the Inquisition in Peru lingered longer than in Europe—it was needed for continued justification of religious control. Even today, religion plays a dominant role in establishing oligarchies and dictatorships.

But what about El Norte? Better here, of course. Well, yes, for those who escaped from Europe's persecutions. Not so good for those who differed from the religious viewpoints that grew up in the New World. Quakers may have a modern-day image as religious pacifists (always problematic to me was President Nixon's Quaker faith!), but back in Colonial days they were seen as a threat and were actually hanged as enemies of the state. And Roger Williams could and did tell a rich story about religious intolerance. The 2008 primary season may have revealed a bit of anti-Mormon bias against candidate Romney, but that was nothing compared to the extermination order issued by the governor of Illinois in the mid-1800s.

I have mulled over this matter for years and come to a few personal conclusions. First, the New World never really

removed religious prejudice—simply because human beings easily tend that way, especially if they are religious (as opposed to spiritual and more Godlike in their charity to others). In Colonial times prejudice and persecution were always present—but unlike the Old World, with its petty provinces and closed societies, the New World allowed an easier escape. That escape could be to another colony or to the wilderness itself (sounds a little prophetic said that way, I know).

With the founding of the American Republic—the United States of America—came the First Amendment to its Constitution and a protection for religious expression, and a restraint against state persecution. It worked well, but not perfectly. One would have to be blind to history not to see in the Indian wars and the oft-stated government policy a determination that these were a people of savage, ungodly disposition and religion.

It was in the Civil War that the truly dangerous elements of religious prejudice kicked in. (Oh, come on, you knew by the title that we were headed this way!) I had my history courses and know that there were many contributing elements to that conflict. The South was a more closed Anglo-Saxon (British) ancestry, the North increasingly a mixing pot of cultures. The South was agrarian, the North an increasingly and technologically driven manufacturing base. These factors alone guaranteed a national crisis. But, as we know, the issue of slavery precipitated the split that led to civil war.

Today in a post-civil-rights era, with a Black U.S. president, and mumblings about reparations being the only real unresolved issue from slavery, we forget how it began. We forget that Arab slave traders traded happily in bodies that were pagan and infidel—their faith excused the practice. We might remember that the sugar cane and then cotton fields demanded lots of cheap labor, which slavery supplied. But we

tend to forget that the Christian nations of Europe embraced slavery because of religious prejudice formulated in then-contemporary theology. We forget that this theology held that corrupt heathen deserved this fall from power over their own destinies, and that by enslaving them the Christian world might introduce them to a greater moral system.

Of course, such a theology was corrupt. And many rose up to challenge its so-called virtue. Their objection was more than a contributing element to a civil war that had many other facets, as well as political intrigues between the states. As John Brown famously observed, the sins of a wicked nation could be purged only by blood.

The title of this editorial repeats that of a movie on the Civil War. It was an apt title, because religion was front and foremost in the hostilities. It was a "just" war—for both sides—an irony that Abraham Lincoln noted in his second inaugural. The synthesis of this religious conflict is what has given cast to American conflicts since. Amazingly, the religious conflict resolved itself by morphing into a spiritual battle for the country itself. (If you ever want to read a well-researched explanation of this, read *Upon the Altar of the Nation: A Moral History of the Civil War*, by Harry S. Stout [Viking Press, 2006].) It removed theological guilt and established a God and country synonym that even today few question.

That is why we should challenge the torture assumptions that lie behind the mistreatment of enemies in the War on Terror that began after 9/11. Human beings and societies of human beings resort rather easily to torture and barbarism in wartime—of that the historical record is clear. The Romans had their crosses—the Tartar horde visited every known indignity on the villages they overran. When the Allies found the German death camps the first reaction was often to slay the guards—later we





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tried and executed the monsters who dreamed up such a hell. But Geneva Conventions against torture can easily come across as just modern reformulations of codes of conduct for predictable conflicts unless we have absolute moral inhibitions against visiting such mistreatment on anyone, no matter the provocation.

So why was it stated early on that we would not be bound by Geneva Conventions in this war that a secretary of defense said would last our lifetimes? Were we suddenly barbarians? I hope not. I think we instantly executed what some have called American exceptionalism, but is better explained as a merging of theology and national identity. If we are good and on God's side by virtue of who we are, then the theological other is by definition evil, and opposed to God—and it is our duty to eradicate evil in all forms. Torture thus becomes, as it did during the misguided era of the Inquisition, an act of faith. I do agree with author Mary Stange's analysis that the torture that followed 9/11 has distinct parallels to religious persecution and

tortures of the past. I hold that in moving beyond it we must recognize it for what it was and reaffirm the dignity and rights of all people—not matter whether they are guilty or innocent. It helps little to debate whether torture works, or whether to do so will invite mistreatment of our troops or condemnation by world courts. And it certainly is not helpful to explain it out of existence by semantics—the term “enhanced interrogation” might enrich a tale like *1984*, but it morally impoverishes those who insist on it. In fact, in dealing with this I call on our leaders to realize that here, too, we need to keep church and state apart. State actions are not automatically to be sanctified as inherently godly.

In this issue we have the continuing saga of how Alonzo T. Jones, editor of the *Liberty* precursor, the *American Sentinel*, battled a groundswell movement to declare the United States a Christian nation and designate Sunday as the day of worship. Seems clear enough now, but at the time it was a hard battle to talk down those who had so conflated

what it was to be an American and what it should be to a deeply committed Christian. I hope you enjoy the retelling of those days.

In our contemporary battles over the correct separation of church and state we need a good sense of perspective. A wrong assumption plus an emergency can lead to very dark times indeed. It is improper to use the state to advance a religious viewpoint—good or bad. And such “enhanced” viewpoints, as history shows, nearly always end up badly. Sometimes we need to say, as did one exasperated target of Senator McCarthy's witch hunt, “Have you no shame, sir? Have you no shame?” When dealing with such a banality of evil, that response alone may break the spell of public deception.

Lincoln E. Steed, Editor  
*Liberty Magazine*

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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.





# Faith, Freedom and Justice Sonia Sotomayor

BY DAVID A. PENDLETON

ILLUSTRATION BY JOE CIARDIELLO

On Thursday, August 6, 2009, the U.S. Senate confirmed Sonia Sotomayor to be the 111th justice of the United States Supreme Court. **What does that mean for religious liberty in America?**

**E**ver since President Barack Obama nominated Sonia Sotomayor to the United States Supreme Court, the chattering classes have speculated endlessly regarding the impact she might have on the future of American jurisprudence.<sup>1</sup> She would bring wide-ranging experiences to the Court: prosecutor, civil litigator, federal trial judge, federal appellate judge, law school instructor, and Hispanic woman.<sup>2</sup> While not a Horatio Alger rags-to-riches success story, she comes pretty close.

As only the second Hispanic named to the Court,<sup>3</sup> her views on race and ethnicity have naturally been of great interest to Court watchers, litigators, and the so-called fourth estate. In fact, for a time her “wise Latina” comments and the president’s equally controversial “empathy standard” were unwelcome distractions and fodder for sharp criticism. But the threatened firestorm turned out to be

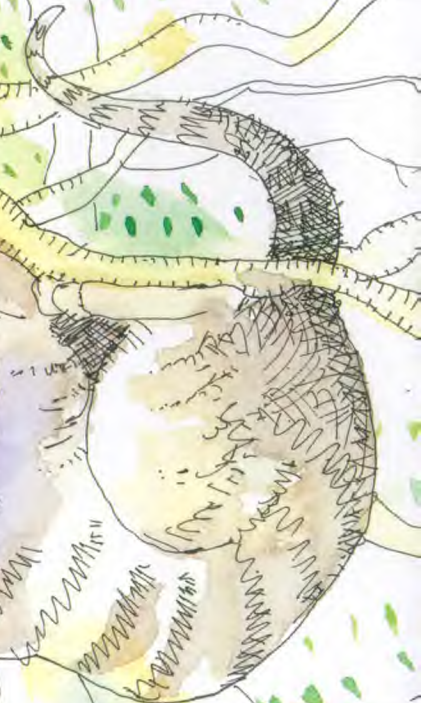




Ford v. McGinnis  
Hankins v. Lyght  
Campos v. Coughlin  
Flamer v. City of  
White Plains

Wise Latina

Non Controversial







President Barack Obama talks with Justice Sonia Sotomayor prior to her investiture ceremony at the Supreme Court September 8, 2009. White House Photo by Pete Souza

more a tempest in a teapot, and during the Senate confirmation hearings she conducted herself with aplomb, charm, and dignity, demonstrating not just a nuanced and sophisticated comprehension of the law but a judicial demeanor and temperament to be expected of one enrobed in the marble edifice at the entrance of which bears the inscription “Equal Justice Under Law.”

At the age of 55, she could potentially serve until 2044, should she serve as long as Justice Oliver Wendell Holmes, Jr. (who served on the Court until the age of 90). Her relative youth, then, is one of the positive considerations that no doubt influenced her nomination.

Perhaps of somewhat lesser public interest, but of no less public importance, are Sotomayor’s views regarding the Constitution’s provisions

generally and the safeguards concerning religious liberty specifically. Appellate judges exercise discretion in interpreting the U.S. Constitution, but are necessarily constrained by the binding precedent set by the U.S. Supreme Court. Since 1803 the judiciary has had final legal interpretive authority within our nation’s system of government and the Supreme Court has reigned supreme over all courts regarding the laws of the land. As Chief Justice Marshall opined in *Marbury v. Madison*: “It is emphatically the province and duty of the Judicial Department to say what the law is.”<sup>4</sup>

Three provisions in the U.S. Constitution expressly reference religion, effectively presenting a triptych showcasing the New World’s commitment to freedom of conscience. One is in



Article VI, Section 3 of the U.S. Constitution, which provides in pertinent part that "... no religious test shall ever be required as a qualification to any office or public trust under the United States." While age and residency requirements may be prescribed for would-be officeholders, this "no religious test" clause clearly proscribes any religious criterion being applied. (In some jurisdictions in colonial America public office holders had to be of the Protestant faith.)

The other two religion provisions are situated in the First Amendment: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." This pair of clauses (free exercise clause and establishment clause) proved fertile soil from which has grown the vast body of intricate, if not convoluted, case law concerning religious liberty.

While Sotomayor's past judicial experience never afforded her the opportunity to opine on the Article VI, Section 3 prohibition against religious tests for officeholders, she has adjudicated cases pertaining to the other two provisions.<sup>5</sup>

A quartet of cases gives voice to her views regarding the religion clauses. *Ford v. McGinnis*,<sup>6</sup> for example, involved an inmate in a state correctional facility who requested to be served an *Eid ul Fitr* meal for observance of the Muslim Festival of Breaking the Fast. He wanted to participate in the daylong celebration at the conclusion of Ramadan, which is a holy month of fasting and prayer for Muslims. The prisoner had to be transferred from Rikers Island to the Downstate Correctional Facility for a court appearance on January 7, 2000, which was the very day for partaking of the *Eid ul Fitr* meal and so was unable to participate at the prescribed time.

Prison officials learned that most Muslims would not observe the feast at a time other than at the appointed time, and so they informed the inmate that no such makeup feast would take place given the generally accepted dictates of Islam. The prisoner in question begged to differ and filed a lawsuit.

The timing of the suit may not have been ideal for the litigant, who filed after the Religious Freedom Restoration Act had been invalidated by the Supreme Court (at least to the extent that it applied to the states) but before the Religious Land Use and Institutionalized Persons Act was passed by Congress. It afforded, however, the appellate court the occasion to decide the issue squarely on the Constitution, not on interpretations of federal statutes.

A federal trial court had affirmed the decision of the prison not to serve the meal at all

since by conventional Muslim standards it would have been too late. By the time Sotomayor heard the case, she was a federal appellate judge serving on the Second Circuit. Writing for the panel, she opined that the appellate court would decline to assess the "objective reasonableness of the prisoner's belief" and would ask rather the more focused and individualized questions of whether "a claimant sincerely holds a particular belief and whether the belief is religious in nature."

This was because judges, though learned in the law, did not have the "aptitude to pass upon the question of whether particular religious beliefs are wrong or right." The decision served a didactic purpose, signaling that courts would look to the sincerely held beliefs of the *individual* adherent party to the litigation, not solely to whether the belief was an official creed or a "tenet or dogma of an established religious sect." No group would determine for the individual what the individual in question believed.

Not a favorite of correctional facility wardens, the case made clear that the Constitution's guarantees afforded substantive rights, not easily dismissed, and certainly not diminished due to the idiosyncratic religious beliefs of the individual asserting the rights.

The case of *Flamer v. City of White Plains*<sup>7</sup> was a suit by Rabbi Reuven Flamer, a Hasidic Lubavitcher Jew, who requested to erect a menorah, a nine-pronged candelabrum, in a city park. He was precluded from so doing by a city council resolution, supported by Reform Jews, prohibiting fixed outdoor displays of religious or political symbols in government parks. The rabbi asserted his constitutional rights to free exercise of religion and to free speech and argued that the city resolution was unconstitutional.

Sotomayor, then serving as a federal trial judge, struck down the resolution as an unconstitutional content-based regulation of speech. A hybrid case involving two First Amendment protections (speech and religion), *Flamer* is seen as a victory for proponents of unfettered religious speech. Why should religious speech be accorded less protection than secular speech? After all, freedom of religion is expressly protected and, therefore, religious speech should for that very reason be accorded more, rather than less, protection.

At the same time, however, there are those of a sincerely religious orientation who equally revere the Constitution who are less than completely comfortable with the decision. For them, the Constitution precludes use of government property for such religious expression. The establishment clause is not just about disestablishing churches but about preventing the per-

The decision served a didactic purpose, signaling that courts would look to the sincerely held beliefs of the individual adherent party to the litigation, not solely to whether the belief was an official creed or a "tenet or dogma of an established religious sect."



Anti-abortion protestors demonstrate against the confirmation of U.S. Supreme Court nominee Judge Sonia Sotomayor before U.S. Senate Judiciary Committee confirmation hearings on Capitol Hill in Washington, July 13, 2009.  
 REUTERS/Jonathan Ernst



ception of government endorsement of a particular faith. The case is not just a skirmish between conservative Hasidic Lubavitcher Jews and progressive Reform Jews; it also reveals the inherent tensions between the establishment clause and free exercise clause.

Judge Sotomayor, with the deft hand of a judicial *maven*, identified the relevant facts and applied the legal precedent. After describing the distinctions between a traditional public forum, a nonpublic forum, and a designated public forum, she permitted the expressive action of erecting the menorah, vindicating the right to religious speech in a forum in which no one would mistake the menorah for government speech. No doubt the case would have been decided the same way whether the display entailed the Ten Commandments, a crescent, or a crèche.

*Campos v. Coughlin*<sup>8</sup> is a third case that can serve as a window on Sotomayor's approach to religious freedom cases. This case also involved incarcerated individuals, who in this case were self-described adherents of the Santeria religion, though some had previously identified themselves as Christians. What makes this case interesting was not just that the believers were prisoners or that they insisted that they had a right to wear multiple strands of beads; it is important because while such a devotional practice may have been officially optional for Santeria practitioners, it was not optional to the petitioners in question. If the state denied their request for accommodation, the denial could, in their

minds, "result in negative and possibly irreversible life consequences for the practitioner."

In deciding the case Judge Sotomayor upheld their claim, holding that an accommodation was constitutionally required. State corrections administrators, while ever mindful of prison safety and security concerns, were no less responsible as government actors for complying with the constitutional right to the free exercise of religion. The right is not absolute and admits of caveats, qualifications, and limitations. But on balance the religious freedoms guaranteed to the prisoners outweighed concerns that the beads might identify prison gang membership (a genuine, nontrivial concern of the warden).

*Hankins v. Lyght*<sup>9</sup> was a case in which an elderly Protestant minister filed suit against his denomination's implementation of mandatory age-based retirement. Though he loved his church, he hated what in his mind was its thinly veiled ageism. In this case Judge Sotomayor parted company with the majority and filed a dissent.

She argued that the federal age discrimination in employment statute was inapplicable to a church's hiring, retention, and employment practices, for to hold otherwise would unduly intrude into matters (of faith) regarding which courts had no competence. Court involvement in a church's mandatory retirement dispute would be to trespass on "spiritually intimate grounds of a religious community's existence."

With due deference to applicable precedent, she explained her reasons for dissenting. One



might infer from her dissenting opinion a profound respect for religious institutions and their faith-informed internal operations. The right to believe belongs not just to an individual but to an aggregate of individuals, and government should studiously avoid becoming embroiled in internecine struggles over religious questions between believers and their communities.

These four cases stand for the constancy of the Constitution. They reveal Sotomayor's judicial *leitmotif* of upholding constitutional rights not just in trouble-free circumstances but even under challenging conditions. The Constitution guides the ship of state not just in tranquil waters but even, and perhaps especially, in the Sturm und Drang of the perfect legal storm.

While it might be an exaggeration to call her opinions illuminating, learned, and lucid, it's not much of an exaggeration. Her published opinions exhibit the painstaking and proficient habits of a judge who is fairly even-tempered, passionate about being dispassionate, and decidedly mainstream. She is not, at least on the religion clauses, an ideologue with a doctrinal ax to grind. Her opinions avoid courting the avant-garde; instead, they are closely reasoned and meticulously written with the fidelity to statutes and studious attention to precedent expected of a neutral adjudicator. Noncontroversial is an apt description of her judicial oeuvre—and perhaps this is precisely what the president wanted.

These are not the only opinions that evince recently confirmed Justice Sotomayor's religious liberty jurisprudence. Professor Howard M. Friedman has compiled an extensive list of Sotomayor's rulings on religion clause issues at his blog, Religion Clause.<sup>10</sup>

Some groups criticize Sotomayor's jurisprudence as being merely *comme ci, comme ça* (so-so) or rather moderately tolerable. Others find her to be—for good or for ill—a rather “strict church-state separationist.” Still others laud her as a brilliant jurist.

According to the Baptist Joint Committee for Religious Liberty, an organization noted for its strict church-state separation, Sotomayor upholds religious “free exercise—even in difficult settings such as prisons and in cases where the religious practices of plaintiffs are unfamiliar,” and “where the governing case law was not settled, she accurately predicted the Supreme Court's eventual resolution.”<sup>11</sup>

Dan Gilgoff, writing in his God & Country blog for *U.S. News and World Report*, found Sotomayor's religion clause cases so middle-of-the-road that he predicted the White House might even focus on them to garner support among religious conservatives.<sup>12</sup>

The American Center for Law and Justice, a traditional values counterpart to the liberal ACLU, doubtless would have preferred a nominee more in the conservative mold of Justice Scalia. But its decision not to actively oppose Sotomayor's confirmation and to rather generically indicate that it “stands firmly behind the appointment of judges who will interpret the law, rather than legislate policy” is telling.<sup>13</sup>

While the U.S. Senate fully inquired into Sotomayor's judicial philosophy, one thing it properly declined to do was inquire into “her own religious faith.”<sup>14</sup> While it is common knowledge that she is a practicing Catholic Christian (and will constitute the sixth Catholic on the nine-member Court), her prayers, devotional practices, and personal theology are not pertinent to her qualifications for the U.S. Supreme Court. Such a line of questioning could be tantamount to a violation of the “no religious test” provision of the Constitution.

In conclusion, if Justice Sotomayor's past writings are any indication, her future religion clause opinions should please First Amendment advocates, especially those for whom religious liberty is vital.

David A. Pendleton writes from Honolulu, Hawaii.

<sup>1</sup> On May 26, 2009, President Barack Obama nominated Sonia Sotomayor to succeed retiring Justice David Souter as an associate justice of the United States Supreme Court. From July 13 to 16, 2009, the U.S. Senate Judiciary Committee held a hearing on the nomination of Sonia Sotomayor, and on July 28, 2009, the Judiciary Committee voted to report to the full U.S. Senate her nomination by a vote of 13-6. On Thursday, August 6, 2009, the U.S. Senate confirmed Sonia Sotomayor to be the 111th justice of the United States Supreme Court. The final vote was 68-31. At the time of this writing, Sonia Sotomayor had not yet been sworn in as a justice.

<sup>2</sup> Arguably no sitting justice possesses a richer legal background than Sonia Sotomayor: B.A., Princeton University, 1976; J.D., Yale Law School, 1979; assistant district attorney in New York (1979-1984); private practice litigating complex commercial cases (1984-1992); federal trial judge (1992-1998), presiding over roughly 450 bench and jury trials; and U.S. Court of Appeals judge since 1998.

<sup>3</sup> Justice Benjamin Cardozo was Jewish with roots traceable to the Iberian Peninsula. While not the first Hispanic to be appointed, Justice Sotomayor is the only currently sitting Hispanic U.S. Supreme Court justice. Her mother immigrated to New York from Puerto Rico.

<sup>4</sup> 5 U.S. (1 Cranch) 137, 177 (1803)

<sup>5</sup> No doubt the four cases discussed herein are a small sample, but these four are representative of Justice Sotomayor's approach to the religion clauses. And while past experience does not guarantee future performance, absent a time machine the opinions of the past are the only ones we can read—the opinions of the future being necessarily beyond human ken. With that said, a more comprehensive review of Justice Sotomayor's religious liberty jurisprudence is the Brookings Institution's “God in Government: Judge Sotomayor's Church-State Record” (July 7, 2009), [www.brookings.edu/opinions/2009/0707\\_sotomayor\\_rogers.aspx](http://www.brookings.edu/opinions/2009/0707_sotomayor_rogers.aspx).

<sup>6</sup> <http://openjurist.org/352/f3d/582/ford-v-mcginnis>

<sup>7</sup> 841 F. Supp. 1365 (S.D.N.Y. 1993); <http://judiciary.senate.gov/nominations/SupremeCourt/Sotomayor/upload/Supplemental-Attachment-18-Flamer-v-City-of-White-Plains.pdf>

<sup>8</sup> 854 F. Supp. 194 (S.D.N.Y. 1994)

<sup>9</sup> 441 F.3d 96 (2006); <http://openjurist.org/441/f3d/96>

<sup>10</sup> <http://religionclause.blogspot.com/>

<sup>11</sup> [www.bjconline.org/index.php?option=com\\_content&task=view&id=2624&Itemid=134](http://www.bjconline.org/index.php?option=com_content&task=view&id=2624&Itemid=134)

<sup>12</sup> [www.usnews.com/blogs/god-and-country/2009/05/26/why-the-white-house-will-promote-sotomayors-religious-liberty-record.html](http://www.usnews.com/blogs/god-and-country/2009/05/26/why-the-white-house-will-promote-sotomayors-religious-liberty-record.html)

<sup>13</sup> [www.acj.org/Issues/Issue.aspx?ID=5](http://www.acj.org/Issues/Issue.aspx?ID=5)

<sup>14</sup> Charles C. Haynes, “Sotomayor, Religious Freedom and the Great Unknown,” First Amendment Center, [www.firstamendmentcenter.org/commentary.aspx?id=21631](http://www.firstamendmentcenter.org/commentary.aspx?id=21631)

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# A CLASH OF MILLENNIALISMS ON CAPITOL HILL

By Douglas Morgan

*Illustration by Dugald Stermer*

**T**he Christian lobby came to Capitol Hill in a big way in 1888. And that meant that the nation's lawmakers were certain to hear from the "counter-lobby" spearheaded by the *American Sentinel* magazine as well. (The *Sentinel* was the precursor to *Liberty* magazine.) As discussed in part 1 of this series, the main purpose of that periodical since its launch just two years before in Oakland, California, had been to resist the efforts of Protestant activists to marshal the power of the federal government in support of their standards of morality.

The running conflict led to a showdown on December 13 in the public reception room of the U.S. Senate. The room was crowded for a hearing on a bill proposed to support "a nation's Sabbath," held by the Committee on Education and Labor, chaired by Senator Henry W. Blair, Republican from New Hampshire.<sup>1</sup> The ensuing debate over

the measure, to be sure, revolved around the First Amendment and the proper relationship between church and state, but influences deeper still generated its energy. It was a clash of millennialisms, differing visions of how the message of judgment and hope in biblical prophecy should guide Christian action in American democracy.

With the *American Sentinel*'s founding editor, Joseph H. Waggoner, dispatched to a new assignment in Europe by the periodical's parent organization, the Seventh-day Adventist Church, it fell to one of the young coeditors, Alonzo T. Jones, to make the case in Washington against the national Sunday observance law being considered by the Fiftieth Congress of the United States. Jones would in fact become a principal spokesperson against the formidable forces arrayed in support of the proposed bill.

Sabbathbreaking, intemperance, impurity,





«...the civil government shall have nothing to do with religion, or with what pertains to God; but shall leave that to every man's conscience and his God.»

ALONZO T. JONES



S  
T  
E  
R  
M  
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R



and gambling constituted the “Big Four” issues on the agenda of a loose alliance of reform organizations and interest groups whose efforts to bring the power of the federal government to bear on those evils began gaining momentum in the 1880s. Though their work overlapped somewhat with the drive for progressive social and economic reforms during the same era, the “Christian lobbyists”—as some of them proudly identified their vocation—made matters of personal morality their main target, according to historian Gaines M. Foster.<sup>2</sup>

However, the work of the National Reform Association, the most significant catalyst for the Christian lobby of the late nineteenth century, had since its origin in 1863 been directed at the heart of the American national identity. Organized as the National Association for the Amendment of the Constitution, it opposed the secular character of the U.S. Constitution and sought to change it with an amendment acknowledging the sovereignty of Christ over the nation. Primarily an effort by ministers of the Reformed and United Presbyterian churches at first, it soon gained the support of clergy from a broad spectrum of Protestant denominations. Along with a change of name to the National Reform Association (NRA) in 1875, the organization also declared a broader goal—“to *christianize the*

*government*”—which entailed a wide range of moral reforms, including recognition of the “Christian Sabbath.”<sup>3</sup>

**D**espite the widening of its support beyond the original denominational base, the NRA never became a mass movement that mobilized an extensive network of grassroots activists. In the early 1880s, though, it formed an ad hoc alliance with an organization that did just that, and did so with great success—the Woman’s Christian Temperance Union (WCTU). Under the powerful leadership of Frances Willard, who became head of the organization in 1879, the WCTU broadened its agenda from the single issue of temperance to comprehensive moral reform through political activism. It was America’s largest women’s organization, with close to 150,000 dues-paying members by the end of the 1880s, organized into more than 7,000 local unions throughout the nation.<sup>4</sup>

A charismatic orator as well as a consummate organizer, Willard laid out a sweeping, postmillennial vision of a nation transformed by Christ in her presidential address at the national WCTU convention held in Nashville in 1887:

“The Woman’s Christian Temperance Union, local, state, national, and worldwide, has one vital,

## Liberty Award Banquet 2009

# Cherished Rights

*A speech given by Rabbi David Saperstein*



**I** thank you very much, and to receive an award from you is a special pleasure. *Liberty* magazine is a source not only of pride to Seventh-day Adventists, but a resource that’s been invaluable to all of us who work on behalf of religious liberty. That’s very special. . . .

America is an extraordinary country. It was founded on a revolutionary notion of humankind for its role in the world. Before the creation of America, the rights of people in Europe were subservient rights, derivative rights, rights that accrued to them by dint of membership in some group beyond themselves. America turned the relationship of the group, the community, and the individual on its head, arguing that the rights we have come from within, that we are endowed by our Creator with certain unalienable rights amongst them—life, liberty, freedom. The right to determine our destiny, pursuit of happiness. The right to say what we want and worship the way we want. The right to publish what we want, associate with people who share our views, petition the government for redress of

MEGAN BRAUNER





Senator Henry W. Blair, author of the so-called Blair Bill that advanced a national Sunday law.



Frances Willard, founder of the Women's Christian Temperance Union.

grievances. Later in our history, to be free of discrimination on the basis of religion, race, national origin, gender. Fundamental, God-given rights! The government doesn't give them to us, and it doesn't take them away from us.

I don't know how many of you have ever had the pleasure to eat in the House of Representatives dining room. But if you do, take a look at an inscription above the door on the way in. It's unattributed, but I'll tell you it comes from Thomas Jefferson. It says, "Man was not made for the state; rather, was state made for man. And only by the consent of the justly governed does the state exist." It's a revolutionary notion. And what this means for us as religious minorities in America is that this was the first nation in the history of the world that created a country which because of the three parts of religion dealt with in the Constitution—no religious test for office, freedom of religion, no establishment of religion—this was the first nation that promised that your rights as a citizen, and your privileges and opportunities, would not depend upon your religious identity, your religious practices, your religious beliefs. What an extraordinary, revolutionary notion that was!

And yes, it took us generations to get there, like many of the rights promised in our founding documents. But in the last 70 years the Supreme Court greatly expanded the understanding of what separation of church and state meant in a

way that enhanced religious liberty and what religious liberty meant. So this was the first country in which it does not matter if all 535 members of the Congress, nine members of the Supreme Court, the president of the United States—I used to say, in the last administration, even the vice president of the United States—believes that the way you worship is incorrect. It doesn't matter if all 300 million Americans believe that what you have to say is incorrect. So long as your exercise of your rights does not infringe upon anyone else's, you have the unalienable right to worship the way you want, to say what you want.

And we cherish those rights. Not in the abstract, we cherish those rights precisely because they are the indispensable *sine qua non* of democracy. Without the free marketplace of ideas, democracy cannot thrive. It cannot survive. That is what America's all about. And because of that vision, we have known more freedoms as religious minorities in this country, more freedoms, more rights, more opportunities than we've known anywhere else in the world.

But we know even here in this country it is not fully protected. And of course, there are challenges across the globe. Think about it—across the globe! That includes the people who today have to live in and worship in underground catacombs, lest authorities discover who they are and punish their



organic thought, one all-absorbing purpose, one undying enthusiasm, and that is that Christ shall be this world's king. Yea, verily, this world's king in its realm of cause and effect; king of its courts, its camps, its commerce; king of its colleges and cloisters; king of its customs and its constitutions."

Willard called for explicitly Christian politics that would bring to realization the reign of Christ promised by Christian eschatology. "The kingdom of Christ 'must enter the realm of law through the gateway of politics,'" she declared. While all "enlightened Christians" must oppose "a union of church and state," Willard proclaimed, they must also "recognize Christ as the great world-force for righteousness and purity, and enthrone Him king of nations in faith, as he will one day be in fact, through Christian politics and laws, no less than Christian living."<sup>5</sup>

It would be a mistake to dismiss Willard and her movement as attempting to confine the nation in a straitjacket of petty, moralistic legalism. Even in invoking the language of "theocracy," as in the following passage from an article published that same year, her fervent idealism envisioned much that was benevolent and liberating. The work of the WCTU, she wrote, was directed toward a time when "future orators . . . will point to those days of the saloon, the prizefight, the trampled Sabbath, the grinding monopoly, the disenfranchised

womanhood, as a period of semi-barbarism from which they thank God for deliverance in to the New Republic with its virtual theocracy and universal brotherhood in Christ."<sup>6</sup>

Willard's inclusion of "the trampled Sabbath" in the same breath as "the saloon," "the grinding monopoly," and "disenfranchised womanhood" helps twenty-first-century readers make the necessary historical leap to a time when Sunday observance was a major, contested public issue. A report to the National Council of Congregational Churches in 1877, for example, declared that "Sabbath desecration has assumed alarming proportions, and summons the churches of Christ to a new and rigorous campaign for its repression." And that report is but one of several pieces of evidence adduced by historian Robert T. Handy to show that in the late nineteenth century, maintaining Sunday "legally as a day apart" remained an important, and newly endangered, sign of the informal but nonetheless real dominance in American culture held collectively by the leading Protestant denominations.<sup>7</sup>

Thus, as part of its expanding agenda, the WCTU added a "Department of Effort to Prevent Sabbath Desecration" in 1884, directed by Josephine C. Bateham, an Oberlin College graduate and former missionary to Haiti who also held office in a similar capacity with the National

devotion to an Authority beyond the state. That includes the Christian mothers, searching for the missing sons who have been kidnapped and converted. It includes the Buddhist monks in reeducation camps. It includes the Seventh-day Adventists facing repression in Turkmenistan. It includes the Muslims persecuted for being the wrong kinds of Muslims. And it includes Jews tried on trumped-up charges of espionage. They are from every region and race, and they cry out to us. As Representative Cleaver said, they cry out to us to stand with them and be with them [Representative Cleaver, Democrat from Missouri, gave a keynote speech at the same 7th Annual Religious Liberty Dinner in Washington, D.C.].

We face challenges here as well. Just one word on separation of church and state. It is, the framers believed, indispensable to religious freedom, and it remains so today. There are going to be issues on which we may disagree in the religious liberty field, some who think that Justice Warren Burger's interpretations went too far, some who think they were just

right and remain indispensable. There are battles over funding, and there are battles over prayer and when it can be said. There are battles over the posting of the Ten Commandments in our classrooms, in our public squares, religious symbols. We may not agree on all of it, but the general architecture of the need to keep government out of religion, religion as a moral goad to government but not as an integral part of government, is indispensable to religious freedom.



From left to right: Seventh-day Adventist Church legislative liaison Barry Bussey, Rabbi David Saperstein, and Nathan Diament of the Union of Orthodox Jewish Congregations of America.

MEGAN BRAUNER



Reform Association. Bateham described the Sabbath as the “nerve center of a Christian nation,” and its observance as vital to the common good of society as temperance. Under her industrious leadership 41 state unions appointed superintendents for a Sunday observance department by the end of the decade.<sup>8</sup>

**T**he foremost organizer of the drive for a national Sunday law in 1888 was the Reverend Wilbur F. Crafts, probably the most industrious of the era’s Christian lobbyists. While pastor of a Presbyterian church in New York City, Crafts published *The Sabbath for Man* in 1884 and a year later began campaigning for a national Sunday law. In that book, which eventually reached seven editions, Crafts drew on a distinction made 20 years before by the Lutheran church historian Philip Schaff to argue that legislation in support of a *civil* Sabbath was legitimate. Government could not enforce *religious* observance of the Sabbath, but Sunday rest laws did serve *civil* interests, benefiting society as a whole by promoting public health, limiting exploitation of workers, reducing crime, and strengthening the home.<sup>9</sup>

Like Willard, Crafts directed his endeavors for Sunday legislation and other reforms toward the ultimate goal of bringing all institutions of American society under “the Kingship of Christ.”

The Bible, Crafts believed, mandates the “Christianizing of society,” the realization of “the kingdom of heaven, a divinely ordered, divinely promised, human and humane society of purity and justice and brotherhood and humanity, in which God’s will is done on earth as it is in heaven.”<sup>10</sup>

Crafts broadened a campaign for national measures for Sabbath observance that began in 1881 as a petition to Congress for a federal law against carrying or delivering mail on Sundays. Yates Hickey of the International Sabbath Association developed the petition, the NRA endorsed it, and Josephine Bateham’s Sunday observance department of the WCTU led in expanding its circulation. A ban on Sunday military parades was added to the petition, and when Crafts came on the scene in 1885, he added a ban on interstate rail traffic and a general Sunday law for the territories to the list of desired measures.

The Sunday law initiative found a welcome response in Congress from Senator Blair, a longtime ally of moral reform causes who had collaborated with the WCTU on behalf of prohibition since 1877. Now, Blair scheduled a hearing on the proposal for a national Sunday law before his Committee on Education and Labor in April 1888. After hearing speakers lined up by Crafts, and thus all favorable, and the reading of a letter

Of course, on that debate over the Ten Commandments, the classic question is, “Whose Ten Commandments is it going to be?” Is it going to be yours, going to be mine, going to be the Catholic version, going to be the original in the minds of some folks in the Christian community, the King James Version? Yeah, I once offered to debate with Jerry Falwell, “Why don’t we go back to the original Hebrew?” He was not satisfied with that. And of course, the truth is, if we convey to our children and our families, our homes, our churches, our synagogues, our mosques, the *meaning* of the Ten Commandments and inscribe them on our hearts, then our classrooms will be more moral places. But if all the Ten Commandments become is a kind of visual Muzak sitting on the wall behind us, stripped of its meaning, it’ll do as much for morality in our classrooms as the Gideon Bibles have done for morality in our motel rooms!

The bottom line is, there are those in the Far Right in America who would argue that separation of church and state is anti-God or anti-religious. Nothing is further from the truth. It is that wall that has kept government *out* of religion that has allowed religion to flourish with the diversity of strength in America unmatched anywhere in the Western democratic world. Far more people going regularly to worship, far more people believing in God (90 percent of Americans), far more people seeing religious values are

central to their lives (85 percent of the American people) than in *any* democratic country that has a government-sponsored, government-preferred, government-established religion.

We have known more freedoms, and we must fight to preserve them. That’s what you do, day in and day out. May God bless you in the continued success of that work, for on your shoulders and your work not only is the religious freedom of all the members of your own family, the Seventh-day Adventist family, but the destiny of all of us. For we are all bound up one with the other. In the end we will triumph together or we will fail together. But yours is an awesome agenda that can transcend challenges and smash limitations until religious freedom is the birthright of every human being everywhere. Bless you in that work.

*Rabbi David Saperstein, the director of the Religious Action Center of Reform Judaism, is an attorney who teaches at Georgetown University Law School. He is also co-chair of the U.S. Commission on International Religious Freedom. He is a ubiquitous and effective proponent of religious freedom and a very public media face to its defense. He gave these remarks in accepting an award of recognition from Liberty magazine editor Lincoln Steed at the 7th Annual Religious Liberty Dinner, held June 18, 2009, at the Capital Hilton in Washington, D.C.*



from Bateham claiming the support of a million people for the petition, Blair agreed to draft a bill. He also advised Crafts to gain broader support for the measure by seeking the endorsement of the Knights of Labor. Though already declining from the peak of popular national support it reached in 1886, the Knights of Labor remained the nation's most widely recognized voice of reform on behalf of the working classes.<sup>11</sup>

Then, on May 21, 1888, Blair introduced "S. 2983," "a bill to secure to the people the enjoyment of the first day of the week, commonly known as the Lord's day, as a day of rest, and to promote its observance as a day of religious worship." Its provisions included prohibition of unnecessary work and recreation "to the disturbance of others" in territories directly under federal jurisdiction, in addition to the restrictions on Sunday mail, interstate commerce and transportation, and routine military "drills, musters, and parades," as outlined by the petitions from the Christian lobby.<sup>12</sup>

Four days later, on May 25, Blair further introduced, to the cheers of the NRA periodical the *Christian Statesman*, a joint resolution charting a new path to constitutional recognition of Christianity as the nation's religion. It proposed an amendment to the Constitution requiring all states to offer free public education that included instruction not only in the "common branches of knowledge," but also in "virtue, morality, and the principles of the Christian religion."<sup>13</sup>

In December, immediately after the second session of the Fiftieth Congress convened, Blair proceeded with a hearing on the Sunday rest bill before his committee. This time arguments both pro and con would be heard. In the intervening months, though, the Christian lobby had marshaled further resources. Crafts laid the groundwork for a new organization, the American Sabbath Union, which held its public organizational meeting on the evening following the December 13 committee hearing.<sup>14</sup> Not only did he succeed in gaining the support of the Knights of Labor; Crafts had in his pocket a letter of endorsement from Cardinal James Gibbons, archbishop of Baltimore and the preeminent member of the American Catholic hierarchy. That letter, Crafts claimed, meant he could add 7.2 million American Catholics to the ranks supporting the national Sunday law, making for a grand total of 14 million.<sup>15</sup>

While Frances Willard and W. F. Crafts tapped into the powerful current of idealism in American Protestantism generated by anticipation of progress toward a new millennial social order, Alonzo T. Jones (1850-1923), more than anyone else, brought the distinct eschatology of

Seventh-day Adventists to bear on public issues during the late nineteenth century. Jones joined the Adventist movement at the age of 24 in Walla Walla, Washington, where he was nearing completion of a five-year enlistment in the U.S. Army. He rapidly developed into a powerful preacher and polemicist and a prolific writer. By the 1890s he was probably the most influential male leader in the denomination.<sup>16</sup>

His path to that status brought him and his colleague Ellet J. Waggoner into conflict with an older generation of founding leaders at the church's General Conference headquarters in Battle Creek, Michigan. Since their emergence in the 1850s, Seventh-day Adventists had been largely preoccupied with proving the truth of the teachings on biblical law, doctrine, and prophecy that they held in distinction from the Protestant majority. Coeditors of an evangelistic periodical the *Signs of the Times*, as well as the *American Sentinel*, Jones and Waggoner sought to refocus the church's teachings on Christ as the source of both forgiving grace and empowerment for holiness of life.<sup>17</sup>

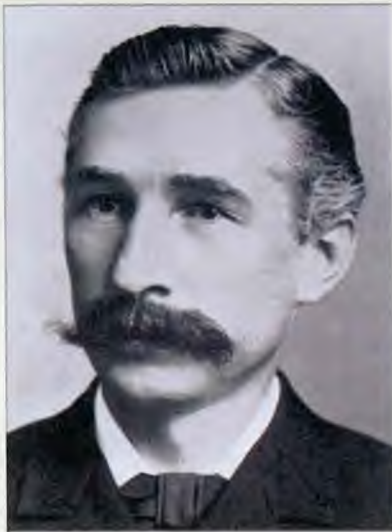
Additionally, Jones, in particular, immersed himself in research that enabled him to draw his own conclusions on how history correlated with biblical prophecy, rather than rely on the church's generally recognized authority, the venerable Uriah Smith. While Seventh-day Adventists had always decisively eschewed calculating dates for the second coming of Christ, remembering the Millerite "Disappointment" of 1844, their proclamation of the *imminence* of the great event remained tied to the conviction that apocalyptic prophecies in the Bible pointed in a specific and unequivocal way to fulfillments throughout history, including their time. Jones's differences with Smith over interpretation of prophecy in no way affected the essential thrust of the Adventist message. The main dispute had to do with exactly which 10 of the "barbarian" tribes that supplanted the Western Roman Empire were symbolized by the 10 toes of the great statue described in chapter 2 of the book of Daniel. As the established leaders saw it, however, any alteration in what they had preached for decades as "truth" would undermine the credibility of their entire system of belief.

The stepped-up activity of the Christian lobby compounded the seriousness—even urgency—with which Adventists viewed these matters. In their reading of the biblical prophecies (see part 1 of this series), the national Sunday law and Christian amendment proposals before Congress signaled a new partnership between religion and state coercion that would end religious freedom in America and begin a time of severe and final tribulation, quickly followed by the return of Christ and destruction of the pres-





Seventh-day Adventist pioneer and visionary Ellen G. White.



Alonzo T. Jones, religious liberty activist and editor of the *American Sentinel*.



E. J. Waggoner was co-editor of the *Sentinel*.

ent order of things. Jones contended that if Adventists wished to bear a true and faithful witness through this apocalyptic crisis, they should subject their claims about how history fulfills prophecy to rigorous scrutiny and make adjustments accordingly.<sup>18</sup>

In October 1888, just two months prior to Senator Blair's hearing on the national Sunday law in Washington, this internal conflict played out at the Adventists' General Conference session in Minneapolis, and its outcome connects with our story of how and why the publishers of the *American Sentinel* sought to influence public policy. Ellen White, whose counsels, or "testimonies," carried prophetic authority in the Adventist community, spoke in support of the young upstarts from California. Her enthusiasm for their work had to do not with a system of doctrine or the particulars of apocalyptic exposition, but with how their teaching drew attention to the transforming love of Christ. Adventists, she said, had been hammering away on the importance of the Ten Commandments for so long that they had become "as dry as the hills of Gilboa." It was time for the refreshing showers of a living connection with Christ.<sup>19</sup>

Out of the conflict at Minneapolis, then, came a revival of Christ-centered spirituality in Adventism, which White, Jones, and Waggoner sought to foster with preaching tours throughout the nation. Their hope and belief was that this renewal would prepare the movement for its final witness to the world, even as events in the public realm seemed to be rushing toward the conclusion of the apocalyptic drama.

As pointed out in part 1 of this series,

Adventists found their defining text in Revelation 14:12, in which the third and last in a sequence of angels delivers a message concerning "the commandments of God, and the faith of Jesus." A burst of power—the "loud cry" of a related passage in Revelation—would, they believed, attend their final proclamation of that message. And, wrote Ellen White in 1892, this very "loud cry of the third angel" had "already begun in the revelation of the righteousness of Christ, the sin-pardoning Redeemer," through the revival emanating from the 1888 conference.<sup>20</sup>

**T**hus, competing eschatologies, differing conceptions of how God's purposes were to be worked out in history, figured prominently in the conflict between Adventists and the Christian lobby on Capitol Hill in 1888 and beyond. What Willard and Crafts saw as a march to the millennium through legislative measures bringing American institutions under the sovereignty of Christ, Jones saw as a slide toward the demise of the nation's celebrated liberties, after which the nation and all corrupt human institutions would be swept away in a radical act of divine judgment and new creation. That expectation, paradoxically, impelled Adventists to vigorous public action to preserve liberty as part of their mission of preparing as many as possible for the new world to come during the time—presumably brief but of indeterminate duration—that remained.<sup>21</sup>

Jones and the Adventists, it should be stressed, were not alone in resisting the national Sunday law. Representatives of the Seventh Day



The *American Sentinel* was happy to identify with Christians “who are liberal enough to maintain that all other men inalienably possess all the rights, human, civil, and religious, that Christians possess.”

Baptists and an organization of religious liberals also spoke against the bill at the Senate hearing on December 13. Indeed the Adventists’ action for religious liberty often brought them into temporary alignment with Jewish organizations, religious liberals, civil libertarians of more secular orientation, and most uncomfortably of all, with saloon owners in opposing Sunday-only closing laws.<sup>22</sup>

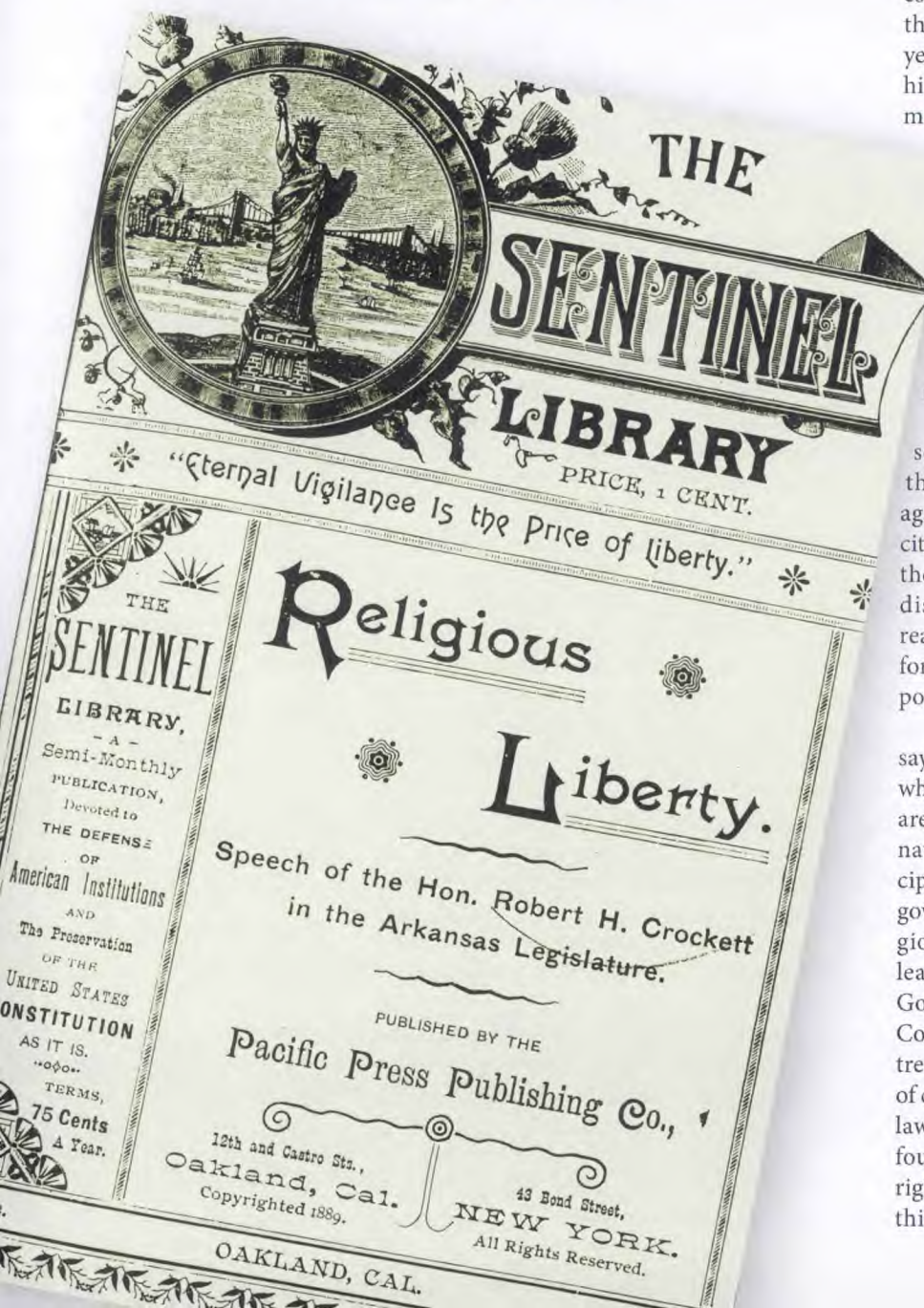
Some Christians “call us Liberals,” Jones acknowledged, “but we are Christians nevertheless.” The *American Sentinel*, he added, was happy to identify with Christians “who are liberal enough to maintain that all other men inalienably possess all the rights, human, civil, and religious, that Christians possess.”<sup>23</sup>

Jones’s testimony, however, took up the largest portion of the time allotted to opponents of the bill on December 13, and over the next four years he would be widely noted in the press for his opposition to Sunday legislation and related measures.<sup>24</sup> And, an examination of the case he

made before Senator Blair’s committee reveals not only the depth of religious conviction undergirding his position, but also the remarkable extent to which he grounded his arguments on assumptions about the truth of Christianity and the authority of the Bible that all concerned—the lawmakers and the lobbyists on both sides—either shared or recognized.

Jones contended that Sunday laws possessed an inherently religious character, and thus violated the Constitution’s prohibition against “establishment of religion.” However, he cited not secular reason but divine revelation as the primary validation for that constitutional distinction between the civil and religious realms. He also found in Scripture the criteria for determining the category in which a proposed enactment belonged.

Putting considerable weight on Jesus’ cryptic saying “Render therefore unto Caesar the things which are Caesar’s; and unto God the things that are God’s” (Matthew 22:21), Jones declared: “Our national Constitution embodies the very principle announced by Jesus Christ, that the civil government shall have nothing to do with religion, or with what pertains to God; but shall leave that to every man’s conscience and his God.” Furthermore, it was the last six of the Ten Commandments, having to do with how humans treat each other, that delineated the proper scope of civil government’s jurisdiction. This ruled out laws regarding the Sabbath (the subject of the fourth commandment), for Jones denied “the right of the civil government to legislate on anything that pertains to our duties to God under





the first four commandments.” On this basis, he denounced the proposed national Sunday bill as not only unconstitutional, but “antichristian.”<sup>25</sup>

The question of whether the law would be a religious or a civil measure lay at the heart of the dispute. Senator Blair reasoned that if, in a democratic nation, “Caesar is *society*,” and if a weekly day of rest is crucial to the common good, it would then come under the proper scope of “Caesar’s” legislation. The references to religion that permeated the bill, Jones countered, belied the claims about its civil purpose. The title itself declared the bill’s purpose both to secure the enjoyment of the day commonly known as the Lord’s day, “as a day of rest” and to “promote its observance as a day of religious worship,” and the language of religious observance and worship extended through the six sections.<sup>26</sup>

Josephine Bateham of the WCTU proposed substituting the word “promote” with “protect,” so that the bill would not give any appearance of a “union of church and state.” Blair, however, saw “protect” as even more problematic—a “stronger and more interfering word” that implied the backing of armed force. Jones happily agreed.<sup>27</sup>

Jones also cited the declaration in a WCTU publication about the coming of a “true theocracy” through “the enthronement of Christ in law and law-makers” as evidence that a “theocratical theory” lay behind the push for the national Sunday law. At that point Blair, who along with the WCTU supported woman suffrage, launched into a line of questions revolving around gender, perhaps seeking thereby to sidetrack Jones; perhaps to inject some dry humor into the proceedings; perhaps simply as a digression; perhaps all of the above. At any rate, the exchange gives us some sense of the dynamics of the hearing and Jones’s ability to hold his own with the senator in repartee:

**Senator Blair.**—Do you think that the question of giving the ballot to women is a religious question?

**Mr. Jones.**—No. I only read this for the purpose of giving the proof that there is a theocratical theory underlying this, as there was that in the fourth century, so as to show the parallel.

**Senator Blair.**—But the parallel seems to imply that the extension of the suffrage to woman is by divine appointment, and is the introduction of a theocratic form of government?

**Mr. Jones.**—Yes, they want the ballot so as to make a theocracy successful.

**Senator Blair.**—Therefore you would be against woman’s suffrage?

**Mr. Jones.**—I would be against woman’s suffrage, or any other kind of suffrage, to establish a theocracy. . . .

**Senator Blair.**—These women need looking after, I admit.

**Mr. Jones.**—They do in that respect, and there are many men concerned in the same business.<sup>28</sup>

The parallel with the fourth century mentioned in this interchange refers to the deepest source of Jones’s opposition to the Sunday law. He saw it, and the entire agenda of the Christian lobby, as accelerating an American transition from republic to empire, similar to that of ancient Rome. In part 3 of this series we will take a closer look at how this view of history, placed in a broader frame of meaning through the apocalyptic prophecies of the Bible, motivated Jones and his fellow Adventists to counter the postmillennial zeal of the Christian lobby.

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<sup>1</sup>“For a Nation’s Sabbath, a Hearing of Six Hours Before Senator Blair’s Committee,” *Washington Post* (Dec. 14, 1888), p. 6.

<sup>2</sup>See his *Moral Reconstruction: Christian Lobbyists and the Federal Legislation of Morality, 1865–1920* (Chapel Hill, N. C.: University of North Carolina Press, 2002), especially pp. 1–7, and on the “Big Four,” p. 112.

<sup>3</sup>*Ibid.*, pp. 22, 27–30, 82–84.

<sup>4</sup>Thomas R. Pegg, *Battling Demon Rum: The Struggle for a Dry America, 1800–1933* (Chicago: Ivan R. Dee, 1998), pp. 68–71; Foster, p. 86.

<sup>5</sup>Excerpts from the speech quoted in A. T. Jones, “Misdirected ‘Enthusiasm,’” *American Sentinel* (Feb. 1888) pp. 12, 13.

<sup>6</sup>Quoted in E. J. Waggoner, “A ‘Virtual Theocracy’ Promised,” *American Sentinel* (Sept. 1887), pp. 66, 67.

<sup>7</sup>Robert T. Handy, *A Christian America: Protestant Hopes and Historical Realities* (New York: Oxford University Press, 1971), pp. 84–88.

<sup>8</sup>Foster, *Moral Reconstruction*, pp. 96, 97.

<sup>9</sup>Gaines M. Foster, “Conservative Social Christianity, the Law, and Personal Morality: Wilbur F. Crafts in Washington,” *Church History* 71 (Dec. 2002): 802, 803. On Schaff, see Handy, pp. 86, 87.

<sup>10</sup>Foster, *Moral Reconstruction*, pp. 110, 111.

<sup>11</sup>*Ibid.*, pp. 96–98.

<sup>12</sup>Alonzo T. Jones, *The Two Republics of Rome and the United States of America* (Oakland: Pacific Press Publishing Co., 1891), pp. 830–832.

<sup>13</sup>*Ibid.*, pp. 820, 821.

<sup>14</sup>Foster, *Moral Reconstruction*, pp. 98, 99.

<sup>15</sup>“For a Nation’s Sabbath,” *Washington Post* (Dec. 14, 1888); A. T. Jones, “The National Sunday Convention,” *American Sentinel* (Jan. 1889), p. 4.

<sup>16</sup>George R. Knight, *From 1888 to Apostasy: The Case of A. T. Jones* (Washington, D.C.: Review and Herald Publishing Assn., 1987), pp. 15, 16, 159.

<sup>17</sup>Richard W. Schwarz, “The Perils of Growth, 1886–1905,” in Gary Land, ed., *Adventism in America* (Grand Rapids, Mich.: Wm. B. Eerdmans, 1986), pp. 99, 100.

<sup>18</sup>George R. Knight, *Angry Saints: Tensions and Possibilities in the Adventist Struggle Over Righteousness by Faith* (Washington, D.C.: Review and Herald Publishing Assn., 1989), pp. 15–39.

<sup>19</sup>*Ibid.*, pp. 49–57.

<sup>20</sup>*Ibid.*, pp. 57–60.

<sup>21</sup>Douglas Morgan, *Adventism and the American Republic: The Public Involvement of a Major Apocalyptic Movement* (Knoxville: University of Tennessee Press, 2001), pp. 43–51.

<sup>22</sup>Eric Syme, *A History of SDA Church-State Relations in the United States* (Mountain View, Calif.: Pacific Press Publishing Assn., 1973), pp. 20–28, 55.

<sup>23</sup>A. T. Jones, “The American Sentinel and the Churches,” *American Sentinel* (Dec. 1888), p. 90.

<sup>24</sup>Knight, *From 1888 to Apostasy*, pp. 76, 77; Foster, *Moral Reconstruction*, pp. 99, 100.

<sup>25</sup>“The National Sunday Law, Argument of Alonzo T. Jones Before the United States Senate Committee on Education and Labor, at Washington, D.C., Dec. 13, 1888,” pp. 22, 25–26, 37–38, 42–43 (American Sentinel tract, 1892), in Religious Liberty Tracts, Online Document Archives, General Conference of Seventh-day Adventists Office of Archives and Statistics, [www.adventistarchives.org/doc\\_info.asp?DocID=47173](http://www.adventistarchives.org/doc_info.asp?DocID=47173) (accessed April 22, 2009).

<sup>26</sup>*Ibid.*, p. 45.

<sup>27</sup>*Ibid.*, pp. 159–162.

<sup>28</sup>*Ibid.*, pp. 59, 60.



Thursday morning, July 30: The mainstream media and punditocracy continued to obsess over “Gatesgate” and that evening’s impending “Beer Summit” on the White House lawn. Meanwhile, in a barely reported story, U.S. district court judge Ellen Segal Huvelle finally ran out of patience with the U.S. Department of Justice over a human rights violation, compared to which Professor Henry Louis Gates’s travails are absurdly trivial. Issuing a blistering critique of the Justice Department’s case for the prosecution—she

**What are we enhancing?**

called it an “outrage,” and “full of holes”—Judge Huvelle ordered the release of detainee Mohammed Jawad from the federal facility at Guantanamo Bay.<sup>1</sup> The following day the Defense Department dropped all charges against Jawad, who at the time was thought likely

BY MARY ZEISS STANGE  
ILLUSTRATION BY TIM O'BRIEN







will be free to return home to Afghanistan in short order.<sup>2</sup>

Mohammed Jawad had been held at Guantanamo for six and a half years. He was arrested in December 2002 in Kabul, on charges that he had tossed a grenade into an Army Jeep, wounding two soldiers and their translator. He may have been as young as 12 at the time of his detention; he unquestionably was a minor. And he was subjected to torture, first by Afghan authorities, and subsequently at Gitmo: torture so severe that the adolescent reportedly attempted suicide in his cell.<sup>3</sup> Justice Department lawyers acknowledged that their case lacked substance, owing to the fact that everything to which Jawad “confessed” resulted from what has genteelly come to be called “enhanced interrogation.”

A few weeks earlier, in a case similarly and surprisingly underreported, stories began appearing about Lakhdar Boumediene, the successful plaintiff in last year’s U.S. Supreme Court ruling *Boumediene v. George W. Bush*, which invalidated the Bush administration’s denial of habeas corpus rights to prisoners at Guantanamo.<sup>4</sup> An Algerian national, Boumediene was arrested in October

2001 in Sarajevo by Bosnian authorities alerted by the CIA to the suspicion that he was a terrorist. He was, in fact, a humanitarian aid worker with the Red Crescent (the Muslim equivalent of the Red Cross), whose only apparent contact with any known terrorists came in the form of offering assistance to the family members of one man who had been apprehended. Boumediene spent seven years in Guantanamo. Exonerated by the Bosnian high court, along with five other Algerians arrested at the same time, he was never formally charged with any crimes by the U.S. Now free since mid-May, looking far older than his 43 years and relocated with his family to France, he recounts having been tortured repeatedly at Gitmo. So unbearable were the conditions of his imprisonment that Boumediene twice went on hunger strike; both times he was kept alive by force-feeding, arguably a form of torture in itself. He and the other Algerian detainees, also now released, claim the torture of detainees continues under the Obama administration.<sup>5</sup>

That stories such as Jawad’s and Boumediene’s capture far less public attention than the president’s choice of brew for an evening’s photo op is

Mohammed Jawad (R), one of the youngest detainees held at Guantanamo Bay, Cuba, is greeted by his grandfather at a family home in Kabul on August 25, 2009, the morning after he returned to Afghanistan. Jawad was accused of throwing a grenade that injured two U.S. soldiers and their interpreter in Kabul in 2002.



OMAR SOBHANI / REUTERS



perhaps unsurprising, given the unpleasantness of the questions they raise. Yet, and this surely is cause for real concern, there is mounting evidence that many Americans are fairly resistant to seeing torture as all that much of a problem, let alone an outrage. At the end of July, *The Economist* published poll numbers derived from research conducted last year by World Public Opinion tracking global attitudes toward torture. "Surprisingly," they noted, "democracies are not necessarily more hostile to the practice than non-democracies. According to the polls, Americans are more willing to tolerate the use of torture than are Chinese." In the poll, the U.S. fell between Egypt and Russia, with a mere 53 percent of Americans saying "all torture should be prohibited," as compared with 82 percent of respondents in Britain, France, and Spain.

Of course, these numbers are a year old, but as Jason Linkins noted in his July 31 blog on HuffingtonPost.com, even taking into account more recent American numbers collected by World Public Opinion, we still lag well behind the 66 percent of Chinese who oppose torture in all its forms. One way, Linkins notes, to account for this is the fact that China has a long established public history of torturing, and therefore a better organized base of opinion against these practices.<sup>6</sup>

But arguably another factor influencing U.S. responses is that we are unaccustomed to thinking about what we do *as* torture. We may from time to time engage in "enhanced interrogation" or "harsh questioning." Or "special tactics," as law professor and CNN consultant Richard Herman recently characterized the treatment of Mohammed Jawad in an interview with Fredricka Whitfield.<sup>7</sup> But torture is something *other* regimes do. Obviously, it is not much of a leap from this line of thinking to the sanctioning of extraordinary rendition.

Inject religion into the debate, and things begin to look even worse. Survey data released last spring by the Pew Forum on Religion and Public Life found that a majority of regularly attending churchgoers in the U.S. say that torture is acceptable, at least under some circumstances. Questioned by the Associated Press as to whether Jesus would condone torture, Conservative commentator and Religious Right spokesman Gary Bauer speculated that Jesus Himself, being the Son of God, probably wouldn't be a torturer (or, Bauer ventured, a Marine or a law enforcement officer), but He'd regard as "morally suspect" any of His followers who shrank from torturing for the sake of the greater good.<sup>8</sup>

One of the most vexing questions that keeps surfacing in the ongoing debate about torture is also the most chillingly pragmatic. Whatever you label it, does a technique such as waterboarding—the source of so much recent ideological hairsplit-

**A majority of regularly attending churchgoers in the U.S. say that torture is acceptable, at least under some circumstances.**

ting—yield reliable information? This is not the same as asking, "Does it work?" Indubitably, it works, to the extent that it yields answers to questions posed under extreme duress. But—and the Mohammed Jawad case is merely the most recent illustration of this fact—those answers are not trustworthy. This crucial point cannot be overstated, as it gives the lie to the "ticking time-bomb" canard, promoted by Harvard law professor Alan Dershowitz, among others, that in a post-9/11 War on Terrorism, torture may be the only last resort to prevent a major disaster.

This past May former FBI special agent Ali Soufan testified before a Senate Judiciary subcommittee panel that techniques such as waterboarding, "from an operational perspective, are slow, ineffective, unreliable, and harmful to our efforts to defeat al-Queda." Soufan related that when he and other FBI agents were interrogating accused al-Qaeda operative Abu Zubaydah using informal, trust-building techniques, they made significant progress in eliciting information from him. However, when CIA contractors took over the interrogation, at the point when they began to employ waterboarding, Zubaydah stopped producing reliable information.<sup>9</sup> Indeed, over the course of a month during which he was subjected to waterboarding 83 times, in addition to other forms of torture ranging from exposure to extreme cold to stress positions that opened his partially healed wounds, Zubaydah revealed a prodigious amount of baseless "information."

This could have been anticipated. After all, history provides ample arguments against the use of torture—and some of the best of these arguments derive from a religious source that might surprise those torture-condoning churchgoers Pew surveyed. I am referring to the most spectacular case of systematic torture in Western history: the Inquisition, and more particularly that aspect of it known as the "witchcraze," which lasted roughly from the fifteenth through the seventeenth centuries in Europe. It offers definitive proof that torture is a highly unreliable way to secure good information.

Since Conservatives have likened calls for the



Lakhdar Boumediene, recently exonerated by the Bosnian high court, claims to have been tortured repeatedly during the seven years he was detained in Guantanamo.



investigation of alleged torture under government auspices to a latter-day “witch hunt,” it may be a good idea to take a look at those original witch hunts, which were conducted under the authority of the Roman Catholic Church. There are, in fact, some interesting similarities between then and now.

The Inquisition targeted a particular population of dangerous individuals who were deemed to be an immediate threat to the public safety. It was held that witches killed babies. They caused male impotence and female infertility and miscarriages. They spoiled the crops by manipulating the weather. They caused the plague. And so on. The population identified as witches was mostly female. Indeed, the witchcraze has been called a “women’s holocaust.” However, it’s worth noting that as in the Nazi Holocaust, those accused of witchcraft also included mentally and physically disabled persons of both sexes, children, homosexuals, and Jews. Collectively, questions of individual guilt and innocence aside, these “heretics” were arguably the demonized “terrorists” of their time.

The witch trials were devised by the church on the expert advice of lawyers, many of whom were also priests. A key focus for these lawyers was the appropriate use of torture—they didn’t hesitate

to call it that—in order to gain a confession, and hence a conviction. The inquisitors had at their disposal a handbook: the *Malleus Maleficarum* (“Hammer Against Witches”), which was published with a papal imprimatur in 1484 by two Dominican priests, Heinrich Kramer and Jakob Sprenger. The logic employed in this document—covering areas such as the relative merits of red-hot irons as opposed to boiling water, and how to strike the right balance of food and/or sleep deprivation—is strikingly similar to that revealed in the Bush administration’s “torture memos” released in April by Obama’s Justice Department.

In the witch trials, as at Guantanamo, there was a general presumption of guilt, not innocence—although, ironically, accused witches had somewhat more habeas corpus rights than did Gitmo detainees before the Supreme Court’s *Boumediene* decision. Meticulous trial records were kept, and among the thousands of condemned witches (and to be accused was almost always to be condemned), a remarkably consistent pattern of testimony emerged. Their stories of their dealings with Satan, and of the precise details of their evil practice, were uncannily similar.

The stories were forced out of them. The point of the increasingly heinous three degrees of torture—this is the origin of our term “third degree”—was to get the accused persons to crack

Title page of *Malleus Maleficarum*, a treatise on witchcraft and demonology.





and admit to being witches according to the program laid down in the *Malleus*. They would also then admit to whatever it was that they had been accused of doing. To escape further torture, they would name neighbors as witches, and attest to their strange witchy behavior: their ability to fly, for example, or to cast spells, or to turn themselves into animals, or, in one of the inquisitors' favorite fixations, to magically castrate men, in one striking case keeping their stolen "members" in bird nests where they fed them grain and corn.

In short, the witches said whatever the inquisitors wanted them to say, no matter how bizarre, based upon the latter's preconceived expectations. So many people were implicated in this way at the Inquisition's zenith that entire villages in northern Europe were basically wiped out. Farther south, the practice of waterboarding was one of the favorite torture techniques for Inquisitors in Spain and Italy. Indeed, while it appears to date back at least to the thirteenth century, the technique essentially as used today is described in considerable detail in documents from the Spanish Inquisition.<sup>10</sup>

Catholics weren't the only ones employing torture to hunt down witches. In northern Europe, in Switzerland and in Britain, Protestants in the sixteenth and seventeenth centuries exhibited their own gusto for hounding heretics, and—perhaps in part because it formed a counter-reaction to Catholic orthodoxy—with about as much rationality as the Catholic authorities displayed. A notable example, in this regard, were the North Berwick witch trials of 1590, in which more than 100 suspected witches in Scotland were tortured, tried, and many of them burned at the stake. Their collective crime? Causing the bad weather that put a damper on the honeymoon of Scottish King James VI (later James I of England) and his Danish bride. A century later, on American shores, Protestant witch-hunting reached its zenith in Salem, Massachusetts. Whereas Catholics had appealed to papal authority, Protestants used the Bible as their “hammer against witches,” with essentially the same irrational, and often tragic, outcome.

To draw a parallel between the witchcraze and the current torture debate is not to say that Gitmo detainees, or other suspected terrorists, should not be brought to justice. I do mean to suggest, however, that torturing them is not the way to get there. The contemporary Roman Catholic Church agrees. The U.S. Conference of Catholic Bishops (USCCB) and the Vatican are squarely opposed to torture in any and all circumstances. Last year, the USCCB issued a study guide, “Torture Is a Moral Issue,” that explicitly condemns practices such as waterboarding.<sup>11</sup>

Beyond cold pragmatism  
lies the fact . . . that any  
acceptance of torture, in  
whatever form and for whatever  
reason, debases us all.

Similarly, the National Council of Churches (NCC)—the country's largest affiliation of Protestant and Orthodox churches—has launched a National Religious Campaign Against Torture. In June, under its auspices, 150 religious leaders representing Jewish, Muslim, and Christian denominations held a vigil outside the White House, calling on President Obama to form a commission of inquiry to investigate all past uses of torture by the government. “The churches that make up the National Council of Churches do not agree on all things,” the Reverend Dr. Michael Kinnamon, NCC general secretary, said, addressing the group, “but on this we agree: all human life is precious because it bears the image of God. Torture, by reducing victims to the status of despised objects, denies this preciousness, debasing tortured and torturers alike.”<sup>12</sup>

Speaking purely pragmatically, anyone who wonders about the practicality of waterboarding should look into, and learn from, the results achieved by the folk who perfected the technique in the first place. But one need not rely upon Christian theology to acknowledge this fact. But neither should one duck the implication that there is too markedly something of religious zeal in the defense of torture.

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Mary Zeiss Stange is professor of Women's Studies and Religion at Skidmore College in Saratoga Springs, New York. Earlier this year she wrote an op-ed in *USA Today* giving much of the same analysis as in this article.

<sup>1</sup> [www.cbsnews.com/stories/2009/07/30/world/main5197744.shtml](http://www.cbsnews.com/stories/2009/07/30/world/main5197744.shtml)

<sup>2</sup> [www.mcclatchydc.com/homepage/story/72848.html](http://www.mcclatchydc.com/homepage/story/72848.html)

<sup>3</sup> [andrewsullivan.theatlantic.com/the\\_daily\\_dish/2009/07/quote-for-the-day-6.html](http://andrewsullivan.theatlantic.com/the_daily_dish/2009/07/quote-for-the-day-6.html)

<sup>4</sup> [www.washingtonpost.com/wp-dyn/content/article/2009/05/25/AR2009052502263.html](http://www.washingtonpost.com/wp-dyn/content/article/2009/05/25/AR2009052502263.html)

<sup>5</sup> [www.sanfranciscosentinel.com/?p=35790](http://www.sanfranciscosentinel.com/?p=35790)

<sup>6</sup> [www.huffingtonpost.com/2009/07/31/economist-us-more-permi\\_n\\_248811.html](http://www.huffingtonpost.com/2009/07/31/economist-us-more-permi_n_248811.html)

<sup>7</sup> CNN, Saturday, Aug. 1, 2009.

<sup>8</sup> Eric Gorski, “Torture Debate Prompts Evangelical Soul-Searching,” AP Report, [abcnews.go.com/us/wireStory?id=7575979](http://abcnews.go.com/us/wireStory?id=7575979)

<sup>9</sup> Deborah Tate, “Former FBI Agent Says Harsh Interrogation Techniques Not Reliable,” Voice of America, May 13, 2009, [www.voanews.com/english/2009-05-13-voa55.cfm](http://www.voanews.com/english/2009-05-13-voa55.cfm)

<sup>10</sup> David M. Gittlitz, “Waterboarding and Inquisition,” *The Providence Journal Online*, Feb. 8, 2008, [www.projo.com/opinion/contributors/content/CT\\_torture8\\_02-08-08\\_LJ8NASA\\_v18.38d1627.html](http://www.projo.com/opinion/contributors/content/CT_torture8_02-08-08_LJ8NASA_v18.38d1627.html)


<sup>11</sup> USCCB Department of Justice, Peace and Human Development, [www.usccb.org/sdwp/stoptorture/](http://www.usccb.org/sdwp/stoptorture/)

<sup>12</sup> [www.nccusa.org/news/090612nrcatdemonstration.html](http://www.nccusa.org/news/090612nrcatdemonstration.html)









# The Victims of Religious Intolerance

BY ALAGAN MOHAN

**N**ations, factions, political groups, and even families go to war with each other to satisfy things like their greed, their pride, and their jealousy.

They let their anger loose in hopes of power. In religious conflicts there is little difference; there is, of course, that extra goad of martyrdom and a sense of God's reward to push one forward. But there is a price. These conflicts cause deterioration in people's souls and minds. Participants no longer think of the consequences of taking another person's life, and they fight as if they have nothing to lose. There begins a steady loss of morals and values—being unable to see their enemy as



human but as heathen, infidels, and the embodiment of an evil that must be defeated. Zealots no longer give others the respect or dignity befitting a human being.

It is a lack of tolerance that caused and causes religious conflicts. Zealots are unable to accept that there are others vying for people to add to their flocks. This has certainly been very true in the past eight years as the United States has engaged Islamic terrorist groups in the war against terror. Now more than ever, groups of radicals feel that the United States is gathering Muslims to turn toward Western belief and turn from Islam. American people have begun to look badly upon Muslims. As a result, the religious conflict has damaged our society's tie with Muslims severely in the past eight years and the only way to fix it is through developing tolerance.

What is really being damaged in American society is our relationship with millions of Muslims in the world—the Muslim world. Sadly, the Muslim community and American society are closing themselves off from each other. More and more Muslims have begun to display their religion very openly. There are more Muslims attending mosques and Islamic schools in America now than before 9/11. This is important: Muslims seem to be breaking away from our society because they know there will be an increase in hate and violence toward them. They had seen it before during the 1995 Oklahoma City bombing when there were 29 violent attacks on Muslims among the 300 hate crimes committed against Muslims that year. Seeing that, they are afraid of being put in the same category as the Islamic radicals halfway around the world and then being abused and attacked because they are also Muslim.

**A**merican society hasn't been helping this much. Many Americans are suspicious of Muslims when they see them. For example, in Tampa, Florida, a pilot for United Airlines refused to allow an Egyptian-American aboard a plane because he looked like a Muslim. In another instance, Muslim women attending Laney College in Oakland, California, were subject to a search and had to show identification because the police were suspicious of them just because they were Muslims. Things like that have tended to cause Muslim society to move further and further from mainstream American society. Some people have been wronged simply because they are practitioners of Islam, and that is straining our relationship with the Muslims who are supportive of the United States.

We have had a large number of religiously moti-

vated attacks in the years after 9/11. The number of hate incidents toward Muslims (these are not listed as hate crimes by the government even though religious intolerance is the most likely cause) had been increasing since the 1995 Oklahoma City bombing by Timothy McVeigh, but it has grown at an extreme rate since the 9/11 attacks. Before 9/11 the number of hate incidents numbered about 366 incidents, but in 2002 the amount of incidents grew to 602. Then in 2005, there were 1,972 hate incidents toward Muslims, which was more than a 300 percent increase in just three years. There has been even a large amount of hate crimes toward Muslims in the



past few years, numbering in the hundreds. These were very violent and hostile acts, too. An example occurred in 2007 when an American of Yemeni descent was assaulted in Lackawanna, New York. He suffered a fracture under his eye, a broken nose, and several cuts in the face that required stitches. There was another case in which 52-year-old Zohreh Assemi, a naturalized citizen from Iran, was assaulted in her own nail salon by two men. The men cut her repeatedly with knives, smashed her hand with a hammer, and scrawled anti-Muslim messages on her mirrors while calling her a terrorist. The root of these crimes is an increase in "Islamophobia," which means people are afraid and look badly upon Muslims and Islam.

These prejudices are even entering the schools. Muslim kids have been called things like "Osama," "terrorist," or "America hater." On the playground, kids have ganged up on them and bully them constantly. One kid actually began having nightmares about this and he wanted to change his name and stop practicing Islam just because he was being bullied. It is wrong to get schoolchildren involved in this kind of thing. Our society has been truly damaged if kids are being discriminated against because of their religion.



**B**ut how can we repair our society's problems?

An answer to this would be, simply, tolerance. A person should not have hate for a group of people because of what one person has done. Just because one person was bad, does that mean their religion or people are bad? Just because medieval Christians persecuted the Jews, does that make all Christians evil? No. Just because the Nazis killed many Jews, does that make all Germans evil? No. So, how can all Muslims be bad just because Osama bin Laden attacked America? Every person is a human, and we have no control over who is the

## Now more than ever, groups of radicals feel that the United States is gathering Muslims to turn toward Western belief and turn from Islam.

same height, weight, age, race, or of the same religion as us. Every person has only their character and their own mind that set them apart from others. Every person has good and bad traits in them, and they should be judged for that—not what someone else has done or what someone else is like. Tolerance means that you do not judge others and you let them be even if they believe in something you do not. It means looking past the bad in someone and seeing what is best about that person. It is like looking past the fact that medieval Christians persecuted the Jews, or how the Nazis tried to wipe out the Jews, or that America used to be segregated—seeing that contemporary Christians, Germans, and America all believe in freedom and peace, just as many people do around the world.

Even those who have been directly affected by religious violence have called for tolerance. For example, after the shooting at the Jewish Federation center in Seattle, the parents of Layla Bush, one of the survivors of the shooting, said that they did not want to “put any prejudice or harassment of the Muslim community here, especially of the family of the shooter.” They knew that it wasn’t the Muslim community that was at fault for what had happened that day. In the end, we all have to realize that.

Jesus preached that we should not judge each

other and we should love each other. He preached tolerance and told everyone to look past the faults of a man and to look only at the being created after the image of God. The prophet Muhammad, the founder of Islam, said, “You have two qualities which God, the Most Exalted, likes and loves. One is mildness and the other is toleration.” (*Riyadh-us-Saliheen*, vol. 1, p. 632). Muhammad was saying that our ability to tolerate is God’s gift to us and God wants us to be tolerant of each other, for that is what our best trait is. It is our ability to look past our arrogance and see people for what they are.

It is reasonable to me that tolerance is a better option than fighting over what God meant. The violence leads only to more violence, stereotypes, and hatred of each other, and that is about all it will lead to. Generalizing that all Muslims are bad is a fallacy, and following a fallacy is following something that is not true and, thus, is bad logic. That bad logic would lead further and further away from the answer to religious conflicts and just leads to a stalemate.

**T**here is no reason to hate someone for what they were born as. You might dislike a person for their personality; that is at least more reasonable than hating because of religion or race; because that person is being judged by their unique actions, not by what they are. Although far better not to hate the person at all. Look at what Martin Luther King, Jr., said in his “I Have a Dream” speech. He said he hoped that one day his children would be judged “by the content of their character.” We must also judge all people by the “content of their character” if we are to truly have peace with everyone. We must be able to look at a person and see the good as well as the bad in order to discern what that person is truly like. There is a Muslim saying, “All creation is the family of God, and the person most beloved by God (is the one) who is kind and caring toward His family.” We have to be able to see that the person we hate is also human, and that common bond is what makes us family, and for that reason we have to be able to forgive and tolerate others.

In the end, we must not make ourselves the judge of humanity, and we must tolerate others despite differences. What makes anyone think that they are the best judge anyway? We are all humans and all have both flaws and greatness within ourselves. We cannot truly be the judge of anyone else because we all have different minds and thoughts than one another. Jesus says, “Judge not according to the appearance” (John 7:24). That is what we must all do, not only for the sake of the Muslims who are discriminated against, but for the truest reparation of American society.

Alagan Mohan was a ninth grader at Skyview Junior High in Bothell, Washington, when this was submitted.



## LETTERS



*"Thank you for  
surprising me  
and for keeping  
all informed."*

### Acknowledging God

I am writing about a couple things I noticed in an old edition of *Liberty*, that were printed a couple years before I knew about your fine magazine. But I feel compelled to point out that the July/August 2004 issue on "Faith and Social Justice," with Martin Luther King, Jr., on the cover, has two mentions of the notion that the Constitution doesn't mention God. One is in the letters to the editor page, and the other is in the article "In Search of a Christian Nation."

In fact, our Lord is mentioned in the Constitution as *Lord* and is also effectively included into the Constitution by what Article VI says. The first is found at the very end where it says: "Done in convention by the unanimous consent of the states present the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven . . ."

The other inclusion of God into the "Supreme Law of the Land" is because of Article VI, which reads in part: "All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation."

What that means is that the documents previously entered into, such as the Declaration of Independence, the Articles of Confederation, the Federalist Papers perhaps, and even the *Magna Carta* (which, like the Declaration of Independence, invokes God), are all brought into the legal wording and meaning of the Constitution. I contend (as have others) that the legal inclusion of those documents into the Constitution through Article VI means that the religious principle of God-given rights as the Declaration of Independence, *Magna Carta*, etc., are built upon is technically woven into the Constitution. The

Founders did not specifically enumerate in the Constitution, as they did in the Declaration of Independence, the fact that our rights come from the Creator/God, but nonetheless *did* include by legal means with Article VI those other important documents founding our government that *do* specifically point out the true foundation and origin of our law—God's law.

SCOTT BARR  
GUILFORD, VERMONT

*Glad that even old issues of Liberty are read carefully. It was of course standard practice in the English society of the time to identify a year as "of our Lord," which is nothing more than saying A.D. 2009 today—a reference to Christ. The culture of England and the colonies was Protestant Christian; so this was a reflect usage. However, it has no real validity in proving a Christian nation intent. Similarly, the roll up of all the legal documents of English history does no more than place the Constitution in the historic continuum of the English peoples, who were initially pagan, then Roman Catholic, and eventually decidedly Protestant. Editor.*

### Thanks for Surprising

I was checking to see if my manager got any mail in the office today and saw your magazine. As soon as I saw that it was about "faith," my stomach turned, as did my nose.

Deciding to see what drivel might be contained within the pages, I started reading. To my surprise, there was no "sell" of religion.

Personally, I believe that organized religion, of all stripes, is the worst thing to happen to humankind. It is through religion that many atrocities have been given "blessing," including the barbarism of today.

At the same time, I have kept a

watchful eye on the goings-on, because to know one's "enemy" is a good thing. I see that your magazine is a way of doing that, too.

As I've come to learn, especially recently, the way to change something is to accept and love it. I realize that religion isn't going away. Because the Divine is love of all and I desire greatly to walk in the Divine's shoes, I must love all.

There are many faces to the Divine, and I agree with those who desire to keep "church" and "state" as the separate entities they are. I never expected this to come from a place or person associated with religion.

Thank you for surprising me and for keeping all informed.

Many blessings.  
MAHVA  
E-MAIL

*Talk about warm fuzzies. Of course, we here at Liberty are all about representing God to a secular world. Too often that is done improperly. Religious freedom entails respecting differences and recognizing that on earth there is safety in recognizing the lines between church and state. However, there should be no line between faith and society! Editor.*

### Lack of Nuance

Edwin C. Cook's article about the Catholic Church's position on religious freedom and church/state relations ("Changing Views," July/August 2009) is too fundamentally flawed to be read as a serious study of the subject.

His proclamation of "Rome's boast that she never changes" displays crass misunderstanding and lack of scholarly nuance.

The Catholic Church does indeed hold to unchanging principles and





bedrock truths, found in Scripture and other tradition. But the church does change, in secondary principles and in practice, as it responds to developing social situations and to new insights in many fields.

The Catholic belief, a foundational one, is that the Holy Spirit is present to guide the ongoing life of God's children in the world.

As regards religious liberty, the Second Vatican Council's 1965 Declaration on Religious Freedom gives a clear and authoritative teaching that has guided Catholic understanding and practice.

In a nutshell, the council fathers declared firm support for religious freedom (see the first paragraph of chapter 2). If he hasn't read this document, Mr. Cook should. It will bring him up to date—to the twentieth and twenty-first centuries.

REVEREND BERNARD BERGER  
CRAWFORD, NEBRASKA

*Yes, of course Rome changes. She has changed massively from that still-blushing bride once married to state power under the emperor Constantine. She has changed greatly from a persecuting power in the Middle Ages. And she did change greatly under the reforms of Vatican II. While the church will probably never quite regress in all areas to any semblance of the claims made before Vatican II about such things as papal statements as to the "absurdity" of religious freedom, it does face pressure to go back to previous positions. Pope John Paul II and his successor, Benedict XVI, both revealed conservative views that challenge the changes of Vatican II. In the document "The Unicity of Salvation" the religious world read again the unchanging self-image of Rome. As I write often in Liberty, the Catholic Church, as does any other church, has a*

*perfect right to believe what it wants. Religious freedom demands it. But with the Roman Catholic Church we have a problematic construct, since the Holy See functions as a state player and it is impossible to have anything but a semblance of church-state separation. And always there is that burden of history.* Editor.

### Privacy Concerns

Following is part of a letter written by my senator to the president. I will be interested in seeing someone in the Seventh-day Adventist Church address this invasion of privacy!

I write to express my concern about a new White House program to monitor American citizens' speech opposing your health care policies, and to seek your assurances that this program is being carried out in a manner consistent with the First Amendment and America's tradition of free speech and public discourse. . . .

"By requesting that citizens send 'fishy' emails to the White House, it is inevitable that the names, email addresses, IP addresses, and private speech of U.S. citizens will be reported to the White House. You should not be surprised that these actions taken by your White House staff raise the specter of a data collection program. As Congress debates health care reform and other critical policy matters, citizen engagement must not be chilled by fear of government monitoring the exercise of free speech rights.

"I can only imagine the level of justifiable outrage had your predecessor asked Americans to forward emails critical of his policies to the White House. I suspect that you would have been leading the charge in condemning such a program—and I would have been at your side."

RHONDA TUMLINSON  
E-MAIL

*Much has been made of the White House call for information on the health-care debate. It does seem more plaintive than sinister, but we must never discount the tendency of any of those in power to use their position to improperly monitor and control.*

*In recent years we have been of course inured to the ubiquitous signs on the freeways to call 1800TIPS and report any suspicious activity. We know the 9/11 genesis of this program, but I have never heard or read any comment on how this differs structurally from the Communist propensity to control society by encouraging informants.*

*We laughed at the formation of "Carnivore" and more sophisticated government systems to monitor all electronic information and draw up warrantless taping of U.S. citizens' phone calls.*

*I am less inclined to see partisan abuse of power in such technological oversight than I am dismayed to realize that the tools of control are so easily used that they may prove irresistible at some point by some faction to restrict freedoms and inhibit the premier freedom of religion.* Editor.

### On Target

I don't know who introduced me to your magazine years ago in California, but you are right on target. I read it faithfully every issue, and I wish more Christians would consider reading a broad range of literature like yours along with their Bible, then pray for discernment on politics and religion. I don't surf the Web, but thanks for providing research for your articles.

BILLIE McDONALD  
LAWTON, OKLAHOMA

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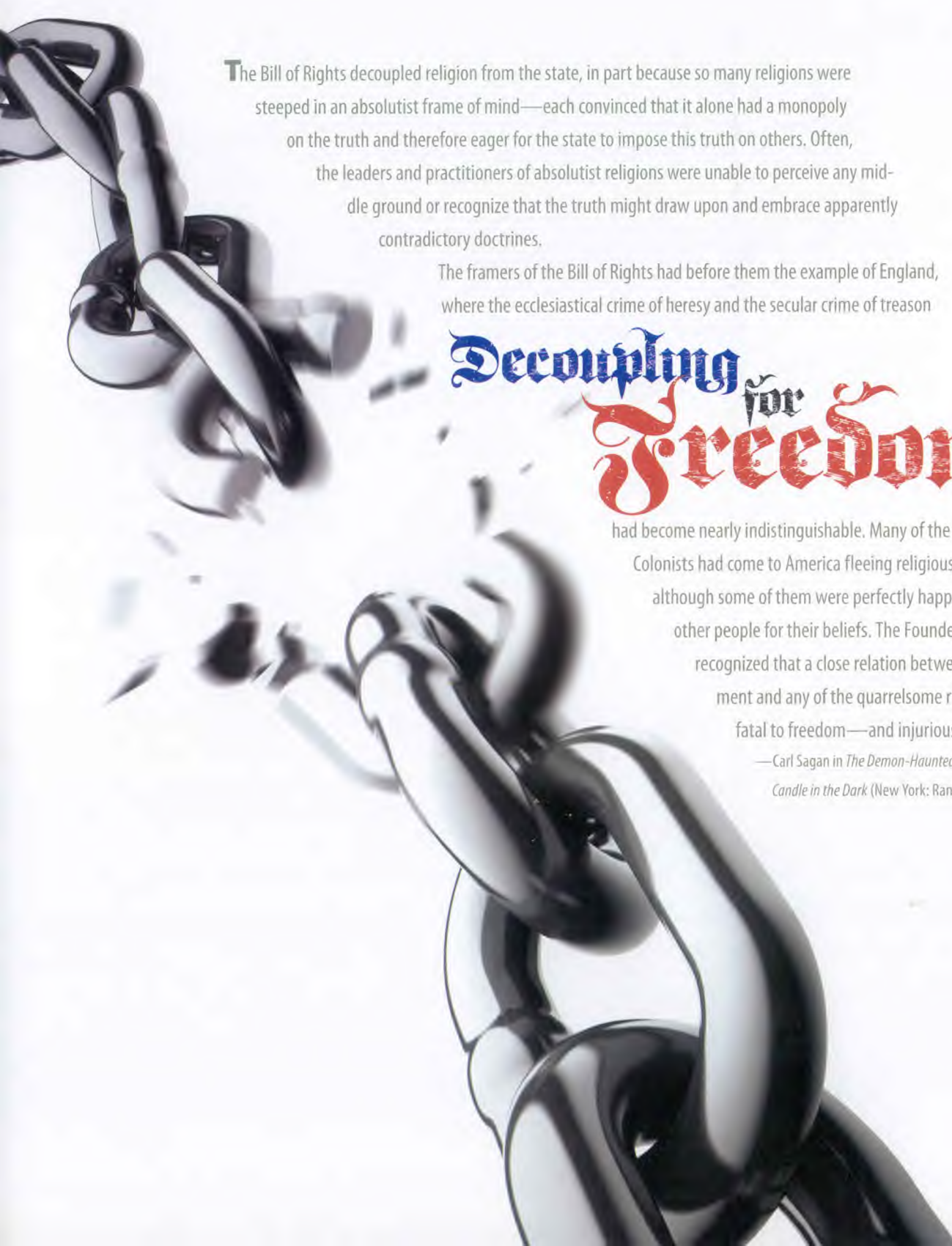
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**T**he Bill of Rights decoupled religion from the state, in part because so many religions were steeped in an absolutist frame of mind—each convinced that it alone had a monopoly on the truth and therefore eager for the state to impose this truth on others. Often, the leaders and practitioners of absolutist religions were unable to perceive any middle ground or recognize that the truth might draw upon and embrace apparently contradictory doctrines.

The framers of the Bill of Rights had before them the example of England, where the ecclesiastical crime of heresy and the secular crime of treason

## Decoupling for Freedom

had become nearly indistinguishable. Many of the early Colonists had come to America fleeing religious persecution, although some of them were perfectly happy to persecute other people for their beliefs. The Founders of our nation recognized that a close relation between the government and any of the quarrelsome religions would be fatal to freedom—and injurious to religion.

—Carl Sagan in *The Demon-Haunted World: Science as a Candle in the Dark* (New York: Random House, 1995).