

SOUTHEAST LAW INSTITUTE™

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Dear Friends and Supporters,

We hope you had a patriotic Fourth of July. For those of us who work daily in the areas of government and law, Independence Day is always a time to recharge our patriotic batteries. We are so grateful to live in a free land where liberty is the rule, and not the exception.

One of our most patriotic ceremonies is the Pledge of Allegiance. In order to distinguish America from atheist nations around the world, Congress added the phrase "under God". The publicity surrounding the case to remove that phrase from the Pledge has been significant. On June 14, 2004, the U.S. Supreme Court ruled in that case, but did not answer the question of whether "under God" is permitted. It left us wondering about what might happen in the future. SLI has had a number of requests for an explanation. This month's Educational Update provides it.

We are glad to report this month that the final order on the Women's Right to Know law has been signed. We reported to you in depth in our February 2004 Educational Update the results of the case. The federal judge signed the final order on June 25, 2004. This did not effect what we reported to you, but finally sets the effective date of distribution for the booklets required by the Act. The date the booklets must be made available to women will be July 26, 2004. The booklets have been corrected and are ready for distribution.

In January we reported to you a problem some parents experienced during Christmas in a municipal school system. A school in the City of Mountain Brook had removed references to Christmas and prohibited religious aspects. We provided legal advice to the parents who have worked with the school and we understand the school has agreed the denial of religious rights will not take place next Christmas. We trust the school will keep its word. If not, we are prepared to protect the parents and children's rights.

We are grateful for your continuing support. Please do not neglect us through the summer months. We have been working on the issue concerning the Alabama Department of Public Health's dispensing of "morning after pills". We will be providing a report and update to you on that. We have already been re-working legislative bills to prohibit same-sex marriage and to protect the unborn. Representatives would like to pre-file some of these bills for the next legislative session. As you can see, even in the summer, there are still compelling issues needing attention. With best wishes, I am,

Yours Very Truly,

A. Eric Johnston
General Counsel

AEJ/mc

The Southeast Law Institute, Inc.™ is a 501(c)(3) organization providing legal counsel on constitutional and public policy issues.

**AN EDUCATIONAL UPDATE FROM
THE SOUTHEAST LAW INSTITUTE™, INC.**

To: SLI Supporters
Date: September 2004
From: A. Eric Johnston
Re: Cultural War in the Public Square: Churches at Risk

At the 2004 Conservative Political Action Conference (CPAC), I spoke with a man from New Jersey who compared his state to a communist country; I spoke to a man from Massachusetts who said he comes to CPAC because there is no one to talk to in Massachusetts about conservative issues. Much of the country today is silent on the cultural war which continues. This is nothing new and commentators have been giving a call to arms for many years. Yet, in recent days, we have seen changes in strategy and, perhaps, a change in the balance of power.

Consider the issues. These are not issues that are the possibilities, but they are now realities. The Ninth Circuit Court of Appeals has upheld Oregon's law permitting physicians to assist citizens to commit suicide; Florida courts have granted the right of Terry Schiavo's husband to disconnect her from life support; Massachusetts has made same-sex marriage legal; abortion is rampant in every state.

Yet, when the church or its people speak out, they are condemned and even subjected to legal action. Americans United for Separation of Church and State have requested the IRS to review the tax exempt status of the Catholic Diocese of Colorado Springs for saying one who supports abortion, same-sex marriage, and the like, cannot take communion. Similarly, a church in Montana has had a complaint filed against it for showing the Focus on the Family "Battle for Marriage" program which calls for support of the Federal Marriage Amendment to prohibit same-sex marriage. Morris Dees of the Southern Poverty Law Center, Roy Moore's nemesis, says the religious right is worse than Nazis.

You can probably think of a number of other similar recent events, but the point is, if the church does not influence the behavior of its members, who or what will? Historically, the church has been the conscience of the nation. It has not always served its people well, such as, our condonation of slavery in the 1800's. Most churches today do not condemn abortion or homosexuality, two of America's primary sins. Those two issues are clearly outside the law of a civilized nation.

Issues like taxation, capital punishment and the "War on Terror" are moral, but the lines are less clear. Many critics condemn churches and their members who speak out on abortion and homosexuality, because they do not speak out on the other issues. Those critics usually do not condemn the more serious sins. They create confusion and often their issues become red herrings. But, in general, it is the exception to speak out on virtually any issue and we should be glad for those who speak out on some of the issues.

So what is the problem today? When a Catholic bishop in Illinois recently said he would not give communion to members who vote for abortion, one news report said that violated the separation of church and state. Church and state? Since when did the church fall under the United States Constitution? The First Amendment establishment clause applies only to government action. The First Amendment also gives the right of free speech, with political speech standing on the top rung of the ladder.

Must we now restrict any position of the church if politics are involved? Consider a recent law passed by the Canadian Parliament which made it a crime to speak out against homosexuality. The United States is much like Canada and if Canada takes that step, might we be next? Consider the plight of those churches in Montana and Colorado Springs. We already have "hate speech" criminal laws. Recently, the U.S. Senate approved an amendment adding "sexual orientation" to federal law. After the murder of an apparent homosexual man in Baldwin County, Alabama, there were renewed calls to add "sexual orientation" to Alabama's law.

The Episcopal church may split over the issue of same-sex marriage. Fox News suggested the Catholic church may split over the issue of abortion. Churches must not fall prey to secular commentators in their condemnation of the church's role in a civilized society. Churches must hold fast to the basic unchanging principles of scripture. If churches will first deal with abortion and homosexuality, maybe they can move on to those other issues. The church must be the conscience of the nation. It was Jiminy Cricket who said "let your conscience be your guide." If a cricket knows this, then shouldn't we?

John Whitehead, founder of The Rutherford Institute, recently authored a booklet entitled "Fighting the Good Fight in the Secular Age". John reminded us that it was colonial Christians who led the drafting of the Declaration of Independence and the abolition of slavery in the United States. Churches and their members must speak out on the issues. There is no law against it. The Southern Baptists did a good job at their recent convention. Roy Moore complained when he was not allowed to acknowledge God through a granite monument. We hope the precedent of that case will not act as a precedent to do real damage to the legality and viability of religious motivated speech in the public square. Symbolism is important, but the reality of action provoking principle is mandatory.