

SOUTHEAST LAW INSTITUTE™

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Dear SLI Supporter:

The most important issue to which we can draw your attention this month is the necessity of ordering your "Choose Life" tag. Alabama's "Choose Life" license plate campaign is in good shape legally, but pro-lifers are not ordering enough tags to cause the state to produce them. On July 29, 2002, the 11th U.S. Circuit Court of Appeals rejected a legal challenge to Florida's "Choose Life" tags which had been brought by NOW and the ACLU. Now that we know it is legal, shouldn't we buy our tags?

Our opportunity to order runs out November 30, 2002, and if 1,000 tags have not been preordered at that time, none will be produced. The whole effort will have failed. Through June 31, 2002, the total sales are 723. We are only 75% of the way there. There are 30,000 Florida vehicles with "Choose Life" tags. Please keep in mind that 82.5% of your purchase price for the tags goes to crisis pregnancy centers. If you have not done so, please go to your local driver's license office in your county and pay the \$50.00 deposit to pre-order tags for each of your cars. It does not matter when your regular renewal date is - preorder now for next year's tag. Alabama's future children will be grateful to you. For more information, visit www.ccbama.org/chooselife/index.htm.

We had been hopeful no lawsuit would be filed against The Woman's Right To Know Act. The State's booklet was due to be distributed in the middle of October, 2002. However, the New York based Center For Reproductive Law And Policy has filed a lawsuit against the Act claiming it is unconstitutional. Attorney General Bill Pryor is pro-life and fully intends to protect the Act. It is too early to give much information at this time, but we will keep you informed. SLI drafted the Act and will give valuable information in its defense.

In September, SLI agreed to serve as local council for the Center for Bio-Ethical Reform (CBR). CBR worked locally with the Christian Service Mission to bring to Birmingham its Reproductive "Choice" Campaign. You may have seen large trucks driving around the metropolitan area with billboard-size photographs depicting aborted children. These are graphic pictures which the news media refuses to publish. The purpose of the campaign is educational and we hope it brought truth to many citizens. Though the FBI called to see what was going on, there were no problems.

This month's Educational Update deals with a contemporary issue related to an age-old concern. With Tim Lahay's "Left Behind" series and other similar books, there has been renewed interest in the biblical book of Revelation. Some of us have sensitivity to those issues. SLI deals with your social security number as "the mark...of the beast."

As you know, the summer is a very bad time for us, as well as other charitable institutions. We are still behind financially, but anticipate the opportunity for a great deal of activity if we can fund it. We hope that our Newsletter and Educational Updates demonstrate to you the valuable work we are able to do. We are able to do it with your help. Please send a generous contribution at this time. As always, I am,

Yours very truly,

A. Eric Johnston

NOTE: For your records, due to an office change with my private practice, please note the SLI change of address and phone numbers. See enclosed letter.

AN EDUCATIONAL UPDATE FROM

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

THE SOUTHEAST LAW INSTITUTE™, INC.

To: SLI Supporters
From: A. Eric Johnston
Date: October 2002
Re: What's in a Number? "The Mark...of the Beast"

And he had power to give life unto the image of the beast, that the image of the beast should both speak, and cause that as many as would not worship the image of the beast should be killed. And he causeth all, both small and great, rich and poor, free and bond, to receive a mark in their right hand, or in their foreheads; and that no man might buy or sell, save he that had the mark, or the name of the beast, or the number of his name.
Revelation 13:15-17

A surprisingly large number of persons have a belief that the federal social security number ("SSN") is Revelation's "the mark...of the beast." These citizens have requested alternatives for identification. In most instances, the government has accommodated this religious belief.

Proposed Alabama Rule

The most recent instance of this being a problem is a proposed amendment to *Alabama Administrative Code* rule 760-X-1-19 which is to "[a]llow foreign nationals who are legally in this country for a period exceeding one year to obtain a driver's license without providing a social security number." Alabama has a growing Hispanic population, as well as others, who are only here temporarily but who need a driver's license in order to legally drive in Alabama. However, they cannot obtain SSN's because they are not citizens. The problem is that under present law you cannot obtain an Alabama driver's license without giving a SSN. Since the foreign national does not have a SSN, he cannot get a drivers' license. Hence, the proposed amendment to the rule.

At the same time, there are Alabama citizens who for sincerely held religious beliefs do not wish to have a SSN. Yet, there is no exception for them under the law. Being a foreign national (not even a citizen) you would have more rights than an actual US/Alabama citizen. SLI has responded to this proposed rule change. We have joined Attorney General Bill Pryor, requesting the proposed rule change include an exception for our citizens.

SLI's Comment

There are detailed legal arguments included in our official Comment (if you would like a copy, let us know). The essence of these arguments is that the federal Tax Reform Act of 1976 gave authority to the state to use social security numbers in order to establish identity for such things as drivers' licenses. This is not a mandatory federal requirement. Also, citizens are protected against governmental abuse and invasion of privacy by the federal Privacy Act of 1974, which prohibits disclosure of the social security number. Therefore, federal law is not the problem.

An Alabama citizen objected to his minor sons being required to have SSN's to obtain drivers' licenses. This resulted in the court case, *McDonald v. Alabama Department of Public Safety*, 756 So. 2d 880 (Ala. Civ. App 1999). SLI rendered some assistance in that case. One of the things that worked out was a *de facto* exception which allowed an applicant for a driver's license to fill out an affidavit about his sincerely held religious belief, thereby not being required to have a SSN. While McDonald did not accept this as a solution, the finding of the court followed current U.S. Constitutional jurisprudence that if the government merely had a "rational basis" for this requirement, a citizen must comply and it would not be necessary to accommodate even a free exercise of religion right. See *Employment Division, DHR of Oregon v. Smith*, 494 U.S. 872 (1990).

It was because of cases like this, SLI drafted and the citizens of Alabama approved the Alabama Religious Freedom Amendment, Amendment 622, *1901 Constitutional Alabama* ("ARFA"). ARFA reinstated the pre-*Smith* rule which was used by federal courts to balance the citizens'

religious rights against necessary government action. Known as the "compelling interest test", it requires the government to first have a compelling interest to regulate religious activity in some way, and then to accomplish that in the least restrictive way. ARFA did not go into effect until after *McDonald*. Therefore, the less protective "rational basis" test was used.

Now ARFA is in effect and in our Comment, SLI argued that while the state has a compelling interest to regulate public roadways, it must do so in a way that does not unconstitutionally burden the religious belief that the SSN is the mark of the beast. How is that done? As a matter of fact, the SSN is not used as your drivers' license number; you are assigned a special number. If you have ever paid for your groceries with a check, they ask for your drivers' license number, not your SSN. Therefore, an alternative means of identification already exists without burdening religious belief. Therefore, the *de facto* method of providing a drivers' license without an SSN which was offered to Mr. McDonald can now become the *de jure* standard for the future.

Conclusion

You may consider this whole debate too legally esoteric or nominal to be worth discussion. Would it make any difference if the issue was the embedding in your neck of a "chip" with your SSN and other information? What may begin as a small experiment with religious freedom could be just the beginning of its destruction. James Madison, often called the Father of the First Amendment, stated we should take alarm at the first experiments with our freedoms. We must each draw the line at where our religion is offended. For some it may be obtaining an SSN, while for others it may be the regulation of our child's church school curricula or the church's daycare program. SLI takes offense at any experiment with religious rights.