

# SOUTHEAST LAW INSTITUTE™

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Dear Friends and Supporters,

With September, political campaigns begin their last push towards November elections. As SLI often says, the people elected to office will determine the need and measure of our legal work in the time that follows. That reminds me, I have not recently reminded you of what SLI is and what it does. Though we have been engaged in this work for over twenty years, many people still ask me what we do.

The Southeast Law Institute works on constitutional and civil liberties cases and public policy issues. This work is limited to issues related to freedom of religion and speech, sanctity of life, parental rights and family issues, and other issues affected by these, such as healthcare and education. While most of our work is done in Alabama, we have provided services all over the country. Our perspective is Christian, conservative and traditional. Here is how we do this work:

- We provide legal advice and representation in and out of court to individuals, churches, and other entities. Our efforts are focused on the cases and issues described above and we do not provide routine legal services.
- We draft proposed laws and provide assistance to legislators, government officials, individuals and organizations through consultation, legislative testimony, legal opinions and other services.
- We are self generating on many issues. We do not wait for someone to call or knock on our door. We offer suggestions and advice to those in positions of authority.
- Our work is done through attorneys who offer their services without charge. SLI pays expenses and occasionally a small fee, when funds are available. By and large, however, we do this work *pro bono*. We are all in private practice supporting themselves in our own firms all over the state. None of us receive a salary.
- In all cases and in all matters, we do not charge a fee or bill expenses to those whom we assist. It does not matter who or what it is, as long as it is within one of our reasons for being, the service is provided with no expectation of an attorney's fee or payment of expenses.
- What this means is that we are completely supported by your contributions. SLI is an IRS approved 501 (c)(3) tax exempt non-profit Alabama corporation. We do not pay taxes and your contributions are 100% tax deductible to you.

Even without paying legal fees, all of this work costs a lot. We have the usual office operating expenses and travel costs. In addition, we have the legal costs associated with court and legislative proceedings. SLI must pay for its services as it provides them. We believe these services are valuable. We hope you agree. Please make your contributions to us whether monthly or otherwise. The summer has been, as customary, a slow time for our support. Please renew and add to your efforts. Commend others to us. Help us expand not only our educational and legal activities, but also our financial base. By doing so, it will increase our influence and ability to make a difference.

In conclusion, this month's Educational Update gives you something to think about. We all must be players in the public square. What are you doing?

Yours Very Truly,

A. Eric Johnston  
General Counsel

AEJ/mc

**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**

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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 mere 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; and the list goes on.

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 a person who supports abortion, same-sex marriage, or 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. Many 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 other issues. Critics usually do not condemn the more serious omissions. 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 regulates only government action. The First Amendment also gives the right of free speech, with political speech standing on the top rung of the ladder. See *Carey v. Brown*, 447 U.S. 455, 467 (1980).

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 in our Western concepts 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 hate speech 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 issues like 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 2004 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 religiously motivated speech in the public square. Symbolism is important, but the reality of action provoking principle is mandatory.