



LAW

The Grove City Horror Show

by Edward D. Snow Jr.

Civil rights activists called Rev. Jerry Falwell "hysterical" for claiming that the recently passed Civil Rights Restoration Act could require churches to hire a "practicing, active homosexual drug addict with AIDS to be a teacher or youth pastor." His claim was dismissed as a ploy by a televangelist to squeeze more money out of a frightened flock. But Falwell's scenario is more easily realized than you might think.

Promoters of the Civil Rights Restoration Act have promised churches and church-owned schools religious exemption, and they may be tempted to take solace in that. But given some recent legislation and court decisions, they should be prepared for federal discrimination lawsuits filed by a civil rights establishment which increasingly views their beliefs as archaic superstitions—ones which prevent millions of Americans from being brought into the "enlightened" world of the popular secular morality embodied in the "new civil rights."

The vehicle for these lawsuits will again be the federal money which permeates every segment of American society. Until 1984, private schools had to comply with the major civil rights legislation only if they accepted direct federal money in the form of grants and contracts. Schools like Hillsdale College and Grove City College were exempt because they took no direct aid from the government.

That all changed when the Supreme Court ruled (in *Grove City College v. Bell*) that *indirect* federal money, in the form of federally guaranteed student loans and PELL grants, brought Grove City's student finance department under the federal civil rights laws.

Not content with that new interpretation of federal support, civil rights activists introduced the Civil Rights Restoration Act. The act prohibits discrimination throughout an entire institution, even if only one department receives federal aid.

Between 1984 and 1988, conservatives sought to stall the Restoration Act or, failing that, to narrowly define the term "federal money." They did not succeed. With the addition of an abortion-neutral amendment and reassurances that church-owned schools were exempt from the legislation, Congress passed the act over Reagan's veto.

The act's supporters have repeatedly made assurances that indirect federal monies such as food stamps, farm subsidies, and sewer grants would not force mom-and-pop grocery stores, family farmers, or municipalities to comply with federal civil rights laws and regulations. Utah's senator Orrin Hatch disagrees. According to him, the legislation would "establish a flypaper bureaucracy, because virtually every individual or business or unit of government that comes into contact with this federal dollar—no matter how remotely or indirectly—will be 'caught' and subject to these requirements."

Senator Kennedy of Massachusetts has maintained that churches will not be affected and that the legislative comments accompanying the act would guide the federal courts in making their rulings. Remember Hubert Humphrey's promise on the floor of the Senate in 1964 that if the civil rights bill resulted in affirmative action he would "physically eat" the very paper upon which it was written? So much for legislative language. So much for "hysteria."

1994: Orwell Plus Ten

It is 1994. President Michael Dukakis's five appointees on the US Supreme Court make it the most activist, liberal

Court in history. The US Congress, with 2-1 Democratic majorities in both Houses, has just passed gay civil rights legislation, prohibiting discrimination based on "sexual preference." President Dukakis praises the legislation, calling it "another great victory for civil rights and another step toward the day when all Americans will be equal."

Within days of passage of the gay rights legislation, Mormon-owned Brigham Young University, the largest church-owned school in the nation, fires a professor for homosexual conduct. The fired professor files suit in federal court, arguing that BYU students' annual receipt of \$40 million in federally guaranteed student loans and PELL grants brings the university under the umbrella of the civil rights legislation. BYU claims its actions are protected by the First Amendment.

The case makes its way to the US Supreme Court. In a stunning and acrimonious 5-4 decision, the Court rules that the civil rights laws are superior to BYU's claim of First Amendment freedoms. The Supreme Court uses as precedent the 1982 Bob Jones University case in which the Court ignored Bob Jones's claims of religious freedoms and struck down the university's IRS tax-exempt status because it prohibited student interracial dating.

Associate Justice Barbara Jordan writes for the Supreme Court's majority: "The notion that Brigham Young University's so-called religious beliefs are sufficient to override the protections of gays, lesbians and other minorities is as illegitimate and abhorrent as the biblical justification of slavery made by Southerners in 19th-century America."

Buoyed by the Court's willingness to brush aside claims of First Amendment protections, homosexual job applicants previously rejected by BYU enlist the help of the ACLU and the Gay and Lesbian Legal Defense Fund to file a massive federal civil rights class

action lawsuit against BYU on the following grounds:

1. BYU's IRS tax-exempt status channels funds to the university that would otherwise go to the federal treasury. The tax-exempt status results in the receipt of federal money, which brings the university under the jurisdiction of the civil rights laws.

2. Located in Provo, Utah, BYU comes under the civil rights laws because Provo City's roads funnel traffic on and off campus. The Provo City Streets Department receives federal money through the Utah State Department of Transportation's Urban Highway Fund.

3. Provo City's Department of Water and Waste Water is using an EPA revolving loan program to remodel its sewage disposal plant, which processes waste from BYU. The EPA loan is a federal subsidy because it is issued at below market rates.

The case reaches the Supreme Court in 1997. Once again, after a bitterly divisive debate among the justices, the liberal majority rules 5-4 in favor of the plaintiffs on all counts and orders BYU to either cease operating or implement an affirmative action hiring plan to increase to 10 percent the number of gay and lesbian professors.



On the same day the Court announces its BYU decision, the Gay and Lesbian Legal Defense Fund and the National Organization for Women file suit to deny the Mormon Church and its five million US members all receipt of federal money because the church and its members assert that homosexual acts are immoral, and refuse to ordain women and practicing homosexuals to the priesthood. Sound impossible? I wish.

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ETHNIC CONFLICT

Who Speaks for the Jews?

by Elliot C. Rothenberg

Just before the Minnesota caucuses, one of the nation's ten or so largest Reform Jewish synagogues, Minneapolis's Temple Israel, cosponsored a political speech by Kitty Dukakis at the synagogue's regular Friday evening sabbath service.

Temple Israel is typical of many synagogues around the country where liberal Democrats are regularly endorsed from the pulpit. The fondness of Jewish leaders for liberal politicians, of course, extends far beyond being a captive audience. It is hardly a secret that Jewish contributors generously finance liberals aspiring to high office.

The Jewish establishment's ties to liberal politics have a long history. But today there is no reason for Jews to indiscriminately support liberals, whatever justification there may have been in the past. Of all the nation's ethnic, religious, and interest groups, the political behavior of the Jewish leadership is the least consistent with its community's interests, and is often perversely inimical to them.

One would think that American Jewry's special political concerns (shared by most Christians as well) would be the preservation of a strong Israel, together with a militarily powerful America, Israel's only ally, and a rejection of bigotry and religious discrimination at home, with opportunities based solely on individual merit. Those are not the policies of the politicians Jewish leaders idolize.

The media has given extensive coverage to the generous support Greek Americans have given to Dukakis. There has been less coverage of the substantial help he has gotten from Jewish liberals. Many in the established Jewish leadership have not only given financial and philosophical support to Dukakis, but are actively working on his campaign. Hyman Bookbinder, the American Jewish Committee's chief Washington spokesman and congressional lobbyist, serves on the Dukakis

campaign staff. At a recent Jewish leadership meeting, Bookbinder boasted that Dukakis will garner as much as 85 percent of the Jewish vote.

That notwithstanding, Dukakis subscribes to the conventional liberal foreign policy dogmas of unilateral American disarmament, sympathy for communist and terrorist regimes in the Third World, and increased deference in foreign policy to the dictates of the United Nations, despite its infamous "Zionism is racism" resolution and other anti-Semitic slanders.

In fact, even before Jewish audiences, Dukakis has declined to give so much as token lip service to concerns over the security of Israel. He has refused to rule out his acceptance of a Palestinian state ruled by the PLO. (Bookbinder views the creation of a PLO stronghold with similar insouciance.) Dukakis wants to turn over responsibility for a Middle East settlement (along with the resolution of other international issues) to the UN General Assembly.

It goes without saying that the left's objectives are not good for Israel. Although in this election year Dukakis and other liberal politicians are more circumspect, Democratic Party activists are increasingly vocal in their hostility to Israel. Several state Democratic conventions this year adopted resolutions demanding the creation of a PLO state, and polls indicate that more than 70 percent of the Democratic National Convention delegates favor the establishment of a Palestinian state in part (or all) of what is now Israel. In any Dukakis administration, Jesse Jackson is probably going to have great influence, which means Jackson may soon be able to hug Yasser Arafat from a position of governmental power.

Many important liberal Jewish leaders found Dukakis insufficiently liberal and backed Jackson this year—despite his "Hymietown" remarks and his assertion, during a trip to Israel yet, that he is "sick and tired of hearing about the Holocaust." In his 1988 campaign, the "reformed" or at least sanitized Jackson attacked Israel again, this time for supposedly invading Angola along with South Africa. No liberal Jewish leader has challenged Jackson for this fabrication.

On the contrary, the New York president of the American Jewish