

For What It Is Worth... Law

By Keith S. Brown

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My brother (a staunch Republican) and I have been engaged in what I think is an interesting discussion about rights and the nature of law. I have attempted to summarize my feelings about those subjects. However, I will admit up front I don't have all the answers. Many times I don't even have the right questions.

I do believe, however, that if I expose my beliefs, one of several things might happen.

- (1) Those beliefs will collapse under the contrary evidence heaped upon them by my good friends as they attempt to enlighten my ignorance.
- (2) My friends will decide I am truly a lost cause... and thus any attempt to enlighten my ignorance is an exercise in futility.
- (3) You, my friend, will ask that I never write again.
- (4) My beliefs, by a quirk of fate, will have some (very) rough approximation of reality.

Thus, I start with the following...

In my opinion, most laws are bad, if for no other reason than that they demonstrate a profound lack of imagination on how to otherwise solve a problem. Laws should, in my opinion, be created rarely, and with reluctance and great trepidation. Laws are a loud and vocal declaration of failure to find another, better solution.

I have often thought a US Amendment that limited Federal Law to a maximum of X statutes or better yet to N uncompressed gigabytes (or less), a good idea. If Congress, in its infinite wisdom, wanted to add a new law, their first action would, by necessity, be to repeal an existing law. A set of laws so massive and complex as to be impossible to ever know is a weapon of awesome power and destruction.

Some laws are the proverbial "use a nuke to swat a mosquito" and generally can (and will eventually) be misused when administrations change or years pass. In other words, the law that satisfies an emotional need now, can be used against the proponents as circumstances change. You know, where some outrage occurs, there is a 10 second spot on TV, a column in the paper, a blog on the net, and the cry echoes across the land "There ought to be a law..."

On a personal level, I believe laws should pass a test similar to the following: "Assume my most fiendish political foe was in power. If that foe used this law, could he proscribe my actions, either banning activities I hold proper, sacred or essential to my well being, or force me to perform actions I find contemptuous, disgusting or repugnant?" If the law I support can be perverted in such a fashion, it is most likely a bad law.

Laws that define first order*ⁱ physical injuries to people and institute a category of appropriate punishments for those acts are necessary. In other words, if I punch you, not as an act of self-defense or defense of family, but as an act of aggression, that action is and should be a punishable offense.

Laws that define first order*(1) property damages and institute a category of appropriate punishments for those acts are necessary. If I torch your house, I have deprived you of the use of your property, that is and should be a punishable offense.

Laws that attempt to prevent insult to my sense of well being or that attempt to shelter my sensibilities, are dangerous. Such laws are flawed from conception, as they promote the belief that government is some ultimate arbiter of right and government can "fix" the unfixable or is somehow responsible for "fixing" people's attitudes and beliefs.

Life in a free society means, in my humble opinion, that my ego will get battered and bruised, but my life and property are generally safe.

Based on the evidence*ⁱⁱ (such as it is) in the reference article, I find the actions of the protesters uncouth, impolite, irreverent, unempathetic, obnoxious, mean-spirited and offensive. However, the First Amendment does not exist to protect the majority. Nor does it exist to defend common held expression. It exists to protect the uncouth, impolite, irreverent, unempathetic, obnoxious, mean-spirited and offensive minority from the potential tyranny of the majority. Who knows, maybe tomorrow, the majority may find some cherished belief of mine uncouth, impolite, unempathetic, obnoxious, mean-spirited and offensive. If I do not defend the right of free speech when I am in the majority, then what moral right do I have to the right when I'm in the minority?

Based on the evidence (such as it is) in the attached articleⁱⁱⁱ, I find the actions of the Patriot Guard, to be admirable, empathetic, inspiring and heart-warming. If true as described, their actions prove that "yet another law" is not necessary.

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ⁱ Actions:

- First Order Actions are where the "actors" directly confront each other. For example in a scuffle, the participants are engaging in First Order Actions. Laws that prohibit and punish such actions are First Order Laws.
- Second Order Actions are where the "actors" may never meet or be aware of the other's existence. For example, some seat-belt laws are justified as, "if you don't wear a seat belt, my insurance premiums will increase" or helmet laws justified as "if you don't wear a helmet, my taxes will go up to support you in a trauma center". Laws that define and punish such actions are Second Order Laws.
- Third Order Actions might be defined such that one actor is an intangible. Third Order Laws would define and punish actions such as "Crimes against Humanity" or "Crimes against Nature". Third Order Laws might also define and punish actions where temporal separations exist, such as "Crimes against the Future" or "Crimes against the Past"
- Fourth Order Actions would combine the intangible and the temporal. The resulting Fourth Order Laws would define and punish such actions as "Crimes against Future Humanity"

Each higher level order imposes additional constraints. Ultimately, the constraint are so tight, that nothing can be done without the explicit permission of some "ultimate arbiter of right", because any independent action will in some way have some possible, as yet unknowable negative effect on someone, somewhere, sometime.

There is no significant difference between citizens living in a society with high order laws and slaves.

ii Base Motives are ascribed to the protesters "State Sen. Anita Bowser said she thinks the demonstrators are hoping to provoke a physical attack so they can file a lawsuit." However, discrediting your opponent by ascribing a base motive is a common tactic. It is common because it is generally successful. It might be true or it might not. There is no way to tell from the article.

iii **ACLU PROTECTING FUNERAL PROTESTERS**

by Jay on 02-02-06 @ 11:41 pm Filed under ACLU, War On Terror, 1st Amendment, Homosexual Agenda, News

Hat tip to Patriotic Mom



Patriot Guard

The Washington Post reported on Monday about five States that wanting to ban funeral protests.

At least five Midwestern states are considering legislation to ban protests at funerals in response to demonstrations by the Rev. Fred Phelps and members of his Topeka, Kan.-based Westboro Baptist Church, who have been protesting at funerals of Iraq war casualties because they say the deaths are God's punishment for U.S. tolerance toward gays.

Though the soldiers were not gay, the protesters say the deaths, as well as Hurricane Katrina, recent mining disasters and other tragedies are God's signs of displeasure. They also protested at the memorial service for the 12 West Virginia miners who died in the Sago Mine.

They have been known to yell things at the memorial services such as, "Thank God for dead Soldiers" and "Thank God for Body Bags".

Legislators in Illinois, Indiana, Missouri and Oklahoma are looking at similar bills. Proposed legislation in Indiana would keep protesters 500 feet from funerals, and make a violation a felony punishable by a three-year prison term and a \$10,000 fine.

State Sen. Anita Bowser said she thinks the demonstrators are hoping to provoke a physical attack so they can file a lawsuit.

“These people are not gainfully employed, so they’re waiting for someone to do battle with them so they can go to court and win,” said Bowser. “They want a big liability case to pursue. I don’t think they actually give a diddly wink about the arguments they’re making, but they’re clever individuals trying to make a fast buck.”

Did I hear a fast buck? ...In walk the ACLU...

Ed Yohnka, communications director of the American Civil Liberties Union of Illinois, said the bills are troubling from a free speech perspective. “We have some concerns about the vagueness of the language,” Yohnka said about the proposed Illinois bill. “. . . One of the things that concerns us very much is the degree to which the bill blocks access to people engaged in political expression on public sidewalks. We think a 300-foot bubble is excessive.”

Patriotic Mom asks:

Once again the ACLU is standing on the wrong side of the fence. What about the rights of those attending the funerals? Do they not have a right to have bury their loved one with the peace and respect our fallen heroes deserve?

Very good question. It would seem so to me, however the ACLU seem to to be leaning more towards the right to a fast buck. She then tells us about a motorcycle group called the Patriot Guard who attend veterans funerals, acting as a buffer zone between the protesters and those attending the funeral services.

It’s a sad state of affairs when our Soldiers families and loved ones need civilians in order to allow them the right to mourn their loss. I’m grateful to the Patriot Guards for quietly standing in order to protect these families. Although it shouldn’t be this way. Rev. Phelps (and I don’t even wish to address this man as a Rev.) is hiding under the guise of saying these Soldiers were gay and deserved to die. He obviously doesn’t know the rules of the military. Even if he does, why is the ACLU helping this radical group?

Indeed, it is sad. But hey! If it is anti-American, you can count on the ACLU to protect it. The question is not whether or not anti-American protesters should be protected, it would be un-American to think other wise. But how far does it go? Most reasonable people say that one person’s rights end when the infringe upon the rights of another. The ACLU would argue this if it were a religious liberty issue. They have argued before that a valivictorian doing a prayer call at a graduation infringed upon the rights of those that did not share the same beliefs. I would think that these protesters infringing upon the rights of those that mourn our fallen heroes not to be any different.

The States are not seeking to stop the protesters from expressing themselves, they are asking for a reasonable 300 ft buffer zone, in order for those mourning can do so in peace.

We all believe in freedom, but for most Americans there is a moral line we don’t cross. For absolutists there is no line.

Linked at Wizbang

The Dread Pundit Bluto linked with Riders Guard Soldier Funerals From Protesters

Vince Aut Morire linked with Riders Guard Soldier Funerals From Protesters

High Country Conservative linked with Idiots on Parade (Again)

Conservative Outpost linked with Daily Summary