

The Mississippi Law Concerning LGBTs

By Elder David Pyles

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof... – U.S. Constitution, Amendment I

It is a disturbing situation indeed when the state government of Mississippi is being widely rebuffed for simply enforcing what the U.S. Constitution so plainly said. As can be seen in the well-known Amendment from the Bill of Rights above, the Constitution not only prevents government from establishing a religion, but also says government cannot prohibit the free exercise of such.

While we might debate the meaning of the word “religion,” all should agree that it would be difficult to conceive of any religion that was void of a system of values wherein certain things were deemed to be right and other things deemed to be wrong. In absence of this, we would surely view anything claiming to be a “religion” with justifiable skepticism. Government clearly prohibits the free exercise of religion when it forbids a man from doing what his religion says to be right, or when it forces him to do what his religion says to be wrong.

Now the Mississippi law simply says that citizens of Mississippi shall not be forced by government to be complicit with what their religion deems to be wrong, which is to say neither more nor less than what the Constitution had already stated. If anyone wishes to complain of the Mississippi law, then let them charge it with redundancy.

Those who would deny or diminish these religious freedoms sometimes adduce cases of violent and coercive religions in their support. Since freedom to these religions must be limited or denied, the argument will be that such must be the case for all religions. The first problem with this argument is that it practices the very discrimination it oftentimes purports to oppose. The favorite ploy of a discriminator is to characterize the whole by its worst element. But the more important point is that the argument is tacitly built on the supposition that the Founding Fathers were innocently naive in this respect, so that when they wrote the First Amendment, they failed to consider the extremities to which so-called “religion” can be carried. Since perverted religion has been in the world for almost as long as man has existed, it is a dubious claim that everyone in a room full of intelligent men failed to consider it.

The Amendment becomes very sensible and practical when one considers that there is insurmountable contradiction in the idea of granting religious freedom to any so-called “religion” that does not believe in religious freedom. If the Founding Fathers were naive, it was only in supposing that their readers would be intelligent enough to capture this point. When the Constitution spoke of “religion,” it necessarily meant a system of beliefs that recognizes the right of others to dissent. Anything denying right of dissent cannot be consistently counted as a religion for purposes of law, and cannot be guaranteed the rights intended by the Amendment.

This observation then divulges the true spirit and intent of the Amendment. Right of dissent is at the heart of everything the Amendment has to say. It is not for government to force Americans into a state of agreement, either real or pretended, on matters of faith and morals. This would be in clear violation of the first part of the Amendment where government is prohibited from establishing a religion. Rather, the obligation of government is to recognize and enforce right of dissent, both in that which properly calls itself a religion and in that which would oppose it. Stated briefly, in matters of faith and morals, it is not for government to dictate terms upon which we must agree; rather, the duty of government is to ensure our right to disagree. This should comport with our sense of fairness. If a religion, as properly defined, does not force itself on others, then others should not be allowed to force themselves upon it.

Right of dissent is also respected by true New Testament Christians because of the following teachings of Christ:

And whosoever shall not receive you, nor hear your words, when ye depart out of that house or city, shake off the dust of your feet. Verily I say unto you, It shall be more tolerable for the land of Sodom and Gomorrha in the day of judgment, than for that city. – Matt 10:14-16

Observe that Christ did not say the dissenter is to be coerced or persecuted. He has a right, at least before men, to disagree with what the Christian has to say. The New Testament view is that a forced believer is no better than an unbeliever and that forced obedience is little better than disobedience. Since such things must come from the heart, little or nothing is accomplished by forcing them. This is why Jesus commanded the Christian to simply walk away from the dissenter and leave him to the judgment of God. But this of course assumes that the Christian does in fact have the right to walk away. In this respect, it assumes right of dissent in both parties. Now this is exactly what the Mississippi law and the Constitution both seek to ensure.

But what of the argument that says gays, lesbians, etc. cannot change what nature has made them, so that to allow others to deny or avert them on this account is all the same as allowing denial of persons on account of their race or gender? This is an argument that has become very common in recent years in defense of measures intended to force acceptance of homosexual behavior. It is built upon the premise that it is unreasonable to discriminate against a person on the basis of what *he is*, though it may be very reasonable to discriminate against him on account of what *he does*.

This would be a reasonable argument if it were valid, but it is in fact invalid when applied to the present case because: 1) It is clearly false because there are many cases of gays and lesbians who have ceased from homosexual behavior, oftentimes because of their own religious convictions. This contrasts with the case of race, where there is not a single instance of white man, black man, red man, etc. ever becoming anything else. 2) It is actually a religious argument, so that to base legislation upon it is to enforce a religious point of view. Few

questions have been analyzed and debated more in religion than the extent to which a man's actions derive from his will as opposed to being physically necessitated by his nature. The question has also been debated in philosophy and science. Now if brilliant thinkers in these fields have been unable to resolve the question notwithstanding many millennia of effort, then legislatures and courts will surely do no better. Law avoids this question by simply taking the position that, except in cases of insanity, men are to be held accountable for their actions regardless of how the question should be answered. Since none are claiming that gays and lesbians are insane, law cannot consistently demand that others accept gay and lesbian behavior as being necessitated by their nature. 3) It is an inapplicable argument in the case of the Mississippi law because this law does not allow discrimination against a person for *being* a gay or lesbian; rather, the law says that a man may not be forced against his religious convictions to be an accomplice to gay and lesbian *behavior*. This is a reasonable position, and any other stance is very apt to be illegal under any credible interpretation of the Constitution.

But what of the argument that says the Mississippi law secures the rights of one party at the expense of the rights of the other? There may be respects in which this complaint is true. Conflicts of interest are inevitable among humans, and seldom are there solutions wherein all parties can completely have their way. The best that can be done by law is equitable compromise. Now it surely is not an equitable compromise when one party is forced to abet the other in the very conduct that is at issue. The Mississippi law forces itself upon none. Indeed, force is what it disallows. Anyone who would oppose this appears bent on compromising justice for purposes of enforcing their own ideologies upon the entire American society. This surely is not in the spirit of the First Amendment.