

PASTURE IN THE BASEMENT

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A real thirsty man would do near anything for a tall glass of water. Such was my perceived condition traveling across the desolate plains of South Dakota. Two hundred and fifty miles from Sioux Falls, I was heading west on 1-90. Ninety-five miles remained before Rapid City. Out ahead ... The Bad Lands, the Black Hills.

With vastness and sameness, a prairie crossing feels so endless. Glancing at the gas gauge my mind played games. I wondered ... had General Custer run out of gas. Only those absent of imagination could avoid reflecting, at least momentarily, on Lewis and Clark, the wagon trains, the homesteaders, and marvel all over again. Infrequent highway exits are mostly baron of commerce. They seem to offer just another path to the horizon, to somewhere, perhaps to a pitiful Indian Reservation. For my diversion, talk-radio is no longer a suitable option. That broadcast medium has successfully diminished nearly all semblance of a civil tongue. Where did you go Don Herman, for goodness sake ... where did you go? The chance to read a small billboard was welcomed. It simply declared "Free Ice Water ...Wall Drug Store." In another ten miles ... there was a second billboard, a larger sign ... "Free Ice Water ...Wall Drug Store ... just 35 miles." Before arriving at Wall, South Dakota, I had focused on at least ten more inviting signs declaring Free Ice Water.

Like an old horse heading for the barn, I took the exit without shame. The conditioning process had worked. I envisioned being a Case Study for Marketing Class at the University. I even pictured the Professor flipping to the next slide ... "Now students ... please observe our Target Consumer, bald, beady-eyed, be-speckled, and very adequately conditioned. Think of him no better than any poor soul crawling out of the desert, begging for water, at any price."

The occasion to visit with the grandson of the founders of Wall Drug Store was a chance happening. Grandfather Hustead had been out of Pharmacy School a couple of years when in 1931 an opportunity was presented to have his own store in Wall. The village was portrayed by their cosmopolitan friends as forsaken. Nonetheless, these were people of faith and good purpose. They accepted the challenge, moving from Sioux Falls to the western prairie, quite ready to begin their life's contribution.

After a few hard Depression years, their net worth had depleted. Time was soon near for acknowledging the shortfall of a noble venture. Dorothy, a never-say-die type, had been eye-balling those Model-A Fords whizzing past her town on the way to recently completed Mt. Rushmore. She had been wondering how to get those travelers to stop. Dorothy answered the question, "what do they want most during a long crossing of a hot prairie?" Free Ice Water signs were erected within the month.

Wall, South Dakota is a charming, commercially viable western town. To any standards, it is a wholesome friendly community. The Drugstore's square footage has expanded considerably, and it remains center town and center stage. They give away on any summer day ... **5000** glasses of ice water.

The occasion of these travels sparked the connecting of notions and anecdotes for this paper. I questioned what else is free in America.

A much earlier distinguished member of our Literary Club staked his political fortunes on what should be free. Salmon P. Chase presented only one paper to the Club before going off to join Lincoln's War Cabinet. The former Chief Justice coined the phrase "Free Soil, Free Labor, Free Men." It was the anti-slavery slogan of the Free Soil Party.

Religious thought and practice of faith remain free, like the ice water ... thousands upon thousands have been drawn to the land where the free-element could be experienced.

The 1st Amendment - Freedom of Religion is a ponderable pillar, probably to a greater extent than my limitations can adequately wrestle. Yet the consumption of its significance has stirred me from time to time.

Over the years my path intersected critically with religious-minded issues. One occurred when I held the deciding undeclared vote on a Bill in the Ohio House of Representatives authorizing a state lottery. A vote in favor was not the preferred position of the United Methodist Church. Fortunately, the **big tent** of Dr. Emerson Colaw allowed even a wayward soul like me to stray, and still slither back to the comfort of the fold.

More recently, since 9/11, consideration of Freedom of Religion turned more intense with me. Before penning the first line, I cautioned myself, there are a goodly number of my fellow Club members who enjoy a historical and theological sense far beyond my own. On the other hand, I am an American, and I revere its history. I often refer to the Constitution and old court cases, and to biographies of great leaders. So with the former as my daunting disclaimer, allow the latter ... my privilege to proceed.

A few years ago, friends from neighboring Adams County were guests at the Farm for Christmas brunch. They are a younger couple, who reside in common-law. When Robert's surviving parent was suffering a final illness, Fanny responded to Robert's newspaper ad for home care assistance.

Fanny was Amish, and it is not unusual for single Amish women to provide home nursing in the rural community. Following the death of his parent, Robert and Fanny realized their mutual fondness had turned to love. A naturally attractive young lady with eye-catching golden-hair, Fanny took the emotionally perilous step to separate from the Amish order, and did so in the dead of night. The reaction within the Amish society was

swift and unforgiving. Though no efforts to deny her civil rights were attempted, the Amish practice of *shunning* was put into effect, and all access to Fanny's prior social and family life was arbitrarily severed. The loneliness for siblings and parents would seem unimaginable. But it was Fanny's compelling cry for freedom, her love for a man . . . raw. . . rare courage, which enabled withstanding the painful blow of banishment. Like an old Readers Digest personality, Fanny soon became "the most unforgettable person we had ever met,"

Penetrating discussions and warm visits have been enjoyed with Fanny over recent years. She is particularly bright, and quite colorful in her observations. I shared with her a memorable conversation. It was a conversation once held with my father, when I asked, if he believed in God.

Dad never answered the question, but he did respond, advising each of us have a *pasture in our mind* where personal issues and religious matters are explored free of bigots or missionaries, a sanctuary, where one can freely visit with a supernatural, or sometimes others. Dad mentioned, he often visited his Mother there. He professed history had proved, and his own experience confirmed, the requisite of a healthy human is to have a **pasture**, a conscious inner recess to consider the natural wonders, any skepticisms, spiritual notions, and practice faith. He suggested the science of psychology offers very explainable reasons why many need and seek the comfort of the assembly with an able spiritual advisor to guide definition and visualization.

Pasture ... what a lovely metaphor, what a lovely word!

Confidence and faith in my father precluded any need to take the subject further. I remember what a distinguished member of this Club, the Reverend Dr. Lynn J. Radcliffe, wrote about Dad in 1959 concerning his management of dying patients. The reference was to Dad's capacity in leading patients "with the truth of their condition" into a private place, where they could be free of anxiety, and where, "they will, with rare exception ... proceed to death nobly and without pain."

On the occasion of that Christmas meal, time had come for our guests to bid good bye. Fanny requested use of the bedroom to change clothes. She emerged wearing the Amish habit. Realizing our surprise, she modestly explained having received a letter from her mother wishing her home for Christmas Day. This was after three years of total shunning. A couple of expressed conditions were tied to her visit. One, she must wear her habit, and two, during dinner she would be required to eat in the basement. As we accompanied our friends to their vehicle, Fanny was sensing my troubled feelings and offered ... "Frank, my friend, do you remember the special place your father once referred? Don't fret ... there will be a pasture in the basement too".

Curiosity spawns ... how did the greater of our standard bearers ... the great men of earlier times, manage the public concern over a contrary religious group whose practices threatened comfort, values, even security.

In one sense, we could marvel how the Freedom of Religion clause in the 1st Amendment stood the test in light of the ease that a charlatan (or perhaps an enemy of State) may hide behind its veil while pursuing a disguised not-so spiritual motive.

A number of defining moments in American history have enabled the pillar to grow stronger. When reviewed collectively, those moments may benefit us and cast light on the forward path.

Are there others, like myself, when passing an Islamic Center, wondering what is going on inside? Despite devotion to the 1st Amendment, do the others also catch themselves thinking about the Trojan Horse, or the Fifth Column? With that in mind, I offer a few historical treasurers.

It was the hot summer of 1790. President George Washington was making his first official visit to Newport, Rhode Island. The community institutions and citizens were celebrating his arrival with parades and festive events. I can only imagine the least concern on the minds of the President's agenda-planners was the Touro Synagogue. The Jewish population in America was miniscule. Most American Christians had little sense of a Jew, and where there was exposure, like in Newport, the relationship between Christians and Jews was arms length at best.

Yet this small and single Hebrew congregation sought to take part and give a congratulatory address to their President, President Washington. On behalf of "the children of the stock of Abraham," an address written by Moses Seixas was presented to the President on August 17, 1790. An excerpt from the Seixas's words goes as follows:

*"Deprived as we heretofore have been of the invaluable rights of free citizens, we now behold a government erected by the Majesty of the People - a Government **which to bigotry gives no sanction, to persecution no assistance, but generously affording to All, liberty of conscience and immunities of Citizenship, deeming every one, of whatever Nation, tongue, or language, equal parts of the great governmental machine.**"*

It was a profound, powerful statement. It was their pledge of allegiance ..." we now behold ... a government erected by the Majesty of the People..." he had said.

But the high moment was not over for the lowest group on the functionary totem-poll of proud-to-be-Americans that day. If the magnanimity of President Washington ever be doubted, the doubter may well be referred to Washington's response to the eloquence of Moses Seixas. The President replied...

"It is now no more ... that toleration is spoken of, as if it was the indulgence of one class of people that

*another enjoyed the exercise of their inherent natural rights. For happily, the government of the United States, which gives **to bigotry no sanction, to persecution no assistance...***

STOP! . . . WHAT HAD THE PRESIDENT SAID?

The President of the United States had merged Mose's very words with his own, and by using those words ... *"to bigotry no sanction, to persecution no assistance ..."* he paid the Hebrew Congregation the highest tribute.

The President then had more to say, and went on....

"The government ... requires only that they who live under its protection should demean themselves as good citizens, in giving it on all occasions their effectual support."

The congratulatory Address and the President's Response were published in a number of newspapers throughout the States. In one Executive moment, George Washington accomplished several things. He adopted from his Jewish constituents the defining and cherished verbiage as concerns the Right of Religious Freedom. The President also introduced Jewish Americans to their fellow Americans across the States, and he spoke to all diverse religious groups making it clear the only requirement of those who live under the protection of Religious Freedom ... "they should demean themselves as good citizens, in giving (the Constitution) on all occasions their effectual support." It was a defining moment indeed, and the word went out.

Seventy-one years further on the American path, Abraham Lincoln experienced an episode of significance when a senior representative of the Mormons, Mr. T.B. Stenhouse, met with the President at the White House in the spring of 1861.

Relations between the U.S. government and the Mormons had been nothing short of tumultuous. Their non-conforming practices had unsettled Congress, challenged the judiciary, and caused Presidents fits for three decades. To a new nation pursuing free enterprise and practicing separation of church and state, Joseph Smith and his Church of Latter-Day Saints was a serious irritant, verbalizing conviction of their own divine election, and declaring all outsiders gentiles, their reference to pagan tribes. Open persecution turned to mob fury, when directed against Joseph Smith in 1832 in northern Ohio. Smith was tarred and feathered, and barely escaped castration when no one had the nerve to take the knife. The understandable urge to escape persecution was sufficient to drive the Mormons west to Illinois where they out-fitted a 4,000 man private army with fine uniforms and well polished shoes. It was there in 1844 where Smith was assassinated by state militiamen. Under new leader, Brigham Young, the flight west continued to the Salt Lake Valley. Young's political view in favor of theocratic government and communal economics, and not necessarily the plural marriages, was the

most threatening to American values and conventional society. But the uprooting, the persecution, created a resolve so strong among believers, that a mere decade later, the Mormons were prepared to challenge a U.S. President and his Army to a final show down. At a time when the national debate over slavery was really heating-up, President Buchanan, perhaps unwisely, decided to replace Brigham Young as Governor of the Utah Territory, dispatching an Army of 2,500 men to enforce the order.

The Mormon hot potato was soon to be inherited by President Lincoln. An article from a Mormon newspaper had reached Lincoln's desk. It presented a hypothetical young Mormon, Mr. Fruitful, who had forty wives, and if all the stars were lined up right, by age 78, Mr. Fruitful would have added 3,508,441 little Saints to God's kingdom. The public mind-set was deeply troubled. The plural marriage system was a source of elevated agitation in the halls of Congress. The Saints application for Statehood had been summarily rejected over the polygamy issue alone. In 1861, Lincoln had certainly more pressing matters than how many wives a Saint might bed. Lincoln wasted no time in removing the Army from the Salt Lake Valley back to their post at Ft. Leavenworth, making a more suitable circumstance to meet with the Mormon representative. Biographical records suggest Lincoln and Stenhouse held a private meeting wherein Lincoln passed no judgments on any religious practices, but cautioned where a stated purpose or group behavior conflicts with the guarantees and protections inherent under the Constitution, co-existence is not possible. As the two came from the meeting, a journalist inquired, what were Lincoln's "intentions **now** towards the Mormons." As only Mr. Lincoln could, with timeless anecdote and typical pause, he answered, "***When I was a boy on the farm in Illinois there was a great deal of lumber which we had to clear away. Occasionally we would come to a log which had fallen down. It was too hard to split, too wet to burn, and too heavy to move, so we plowed around it. That's what I intend to do with the Mormons,***

That was all the Mormons ever needed to hear. Lincoln avoided perhaps a second civil war in the West. He had also, for public consumption, defined the Mormon problem as a non-national concern, simultaneously granted time to a non-conventional group to clean up their act. By the most Lincoln-of-means, the moment was defining. The word went out, and the Mormon conformation process began. The Mormon Church revoked its endorsement of polygamy before the turn of the century. Their rhetoric subsided and statehood was granted to Utah. A co-existent mind-set was ultimately achieved, all within the confines of the Constitutional umbrella.

The granting of Executive leadership, and its exercise of authority over the subtleties in our way of life, may be yet another feather in the genius of our means of government. If that be the Republic's general leadership form over body politic, to the Judiciary was assigned interpreting the rules and judging conduct of individuals, when causes would be given to judge, due to alleged rights denied, or damages suffered.

American judicial history affords plentiful cases wherein Freedom of Religion under the 1st Amendment played in the ultimate decision. But no annotated case comes

even close in pure courtroom drama, gut gripping facts, and emotional toll, than does a reasonably obscure 1947 trial in the Common Pleas Court of Wayne County, Ohio.

Among the cast of characters was Plaintiff Andy Yoder an endearing young father of seven. Like many of Amish persuasion, Andy was a farmer. The farm was owned by his father, with parcels leased to Andy and his brother. Several years earlier Andy's two year old daughter, Lizzie, contracted polio resulting in disability and need of regular medical treatments in Wooster, the county seat. Transporting his child twice a week to the medical facility required a vehicle. The rules of the Old Order Amish forbade ownership of an automobile. To offer Lizzie a reasonable chance for recovery, the Yoders made the critical decision to first peacefully withdraw from the Old Order Amish Church, and only then, did they acquire a 1937 Chevrolet to meet their need.

The Bishop, Preachers, and Deacon would not tolerate Andy's withdrawal, or his operation of an automobile. They immediately invoked Article 17, The Dortrecht Confession of Faith, their spiritual guide, dated 1693, written in Dortrecht, Holland by Jakob Amman. This act caused the shunning and boycotting of the alleged unfaithful, Andy Yoder. For several years Andy struggled, almost alone, to make a living. Those, who attempted to assist him at harvest time, were likewise banned by the church. At a family funeral he was made to eat in the cellar. The breaking point came when the Bishop called at the farm and demanded the father oust his son from the land, or find himself expelled and banned. Andy, an otherwise easy mannered passive man, snatched the Bishop's beard and escorted him to the road.

Andrew Yoder then proceeded with the unprecedented Amish step and filed an action against Bishop Helmuth, Preachers Nisley and Miller, and old Deacon Wengard, for damages and an injunction to cease the boycott Defendants were enforcing throughout the church community.

Initially the Defendants refused to answer the plaintiff's petition, and rejected representation by legal counsel, citing a bible passage ..." but beware of men, for they will deliver you up to the Councils ..." No doubt, due to some meaningful persuader, the Defendants yielded ultimately and filed an answer to Yoder's charges. Perhaps not surprising, the Defendants fully admitted putting Andy Yoder under the ban, to be shunned and boycotted by all faithful Amish, stating "the church must put away him that is wicked whether it be doctrine or in life." Their court brief, written without benefit of counsel, concludes with a subjective heart felt view as to their religious right under the 1st Amendment.

This had quickly become no ordinary small-town trial.

During the days of testimony, the streets of Wooster were swelled with townspeople, farmers, Amish, Mennonites, and reporters from distant Amish communities. The court gallery was filled to capacity. Political Science students and faculty from local Wooster College excused a class day to observe the spectacle. The question students and reporters debated ... was this merely a narrow issue of local mores,

or a real sectarian dispute involving civil liberties and the constitutional guarantee of religious freedom. Amish folks could be seen wondering aimlessly in alleys, while still others in statue-like pockets gathered on street corners.

There was real question whether the Defendants would even appear. They did nonetheless, arriving at the last minute. With no files, no documents, no lawyer, submissively placing their broad-brimmed black hats in a neat configuration atop the table.

The Defendants' admissions, and the witness testimony, were seemingly incontrovertible. The church by collective decision, and blanket boycott, was interfering with Andy's ability to make a living.

The customarily secure and contented Defendants began displaying anguished expressions as the trial moved to its second day. All four cried on the witness stand as they quoted the "Law of God" as prescribed in their Confession of Faith. The knowing by-standers suggested the plaintiff, Andy Yoder, had withered physically over recent years seeming only a hint of his former self. Though he appeared frail and pale there was a steadfastness of manner, and he spoke with a strong and clear voice.

Everyone waited in suspense for Judge Mougey's charge to the jury. Would he narrow the issue? Judge Mougey was himself of Mennonite descent. Near perfect silence reigned in the courtroom as he prepared to address the jury. With clear diction and measured words Judge Mougey spoke ..."your verdict in this case will have in the future a great deal to do with our form of government and what we may expect. You are to decide whether ... the Defendants did conspire ... and by their acts ... violate the civil rights of the plaintiff and cause him injury and loss, and if (so) ... you must determine ... damages due him." As a legal basis for "your consideration," Judge Mougey cited, the First Article of the Bill of Rights of the U.S. Constitution, and then emphasized, "evil acts"... even when performed by a religious group are unlawful. The right to human life and liberty prevents such practices, and the Constitution protects these rights." The clarity of his charge created a watershed judicial moment.

The jury returned in under two hours with a unanimous verdict for the Plaintiff and awarded damages. The Judge then decreed a sweeping injunction preventing further interference with Andy's right to social and business intercourse. Andy Yoder interviewed after the verdict, said, "I am satisfied the injunction will do more than the damages; I think the Churchmen will think before putting on more bans." He was absolutely right. The word went out, and Amish leaders came from as far away as Lancaster, Pennsylvania to examine the court record. The verdict was not appealed. It stands in the Amish community as the Constitutional measure for what you can and cannot do. Yes, the Amish still practice social shunning of their wayward flock, but incidents of Amish officially and actually boycotting the business affairs of anyone virtually disappeared.

Our country's 1st President had been clear on the subject, and Judge Mougey made it **even more clear** on addressing the Defendants. The Judge referred to their self-

serving misuse of the Amish guide, the Confession of Faith, suggesting nowhere does it state a bishop, a deacon, or preacher are given authority to enforce faith ... that prerogative remains, he declared, "to the conscience of the individual."

In light of our current day circumstances, there exists public concern. The Nation's pillars are embracing the issues. We entrust to our Chief Executive the management of the broader abstract notions.

My news source, one close to the Administration, suggests President Bush sought William F. Buckley's philosophical focus prior to private meetings with Islamic leaders. Buckley has been articulate and persuasive, that co-existence is enabled by celebrating Koran teachings that deplore extremism, while protecting the moderate voices who wish to jettison misused passages, those militant passages inherent with tribal law. Tribal law to a great extent is not compatible with the U.S. Constitution. "This would be no different," states my sister, Pastor Sally Schreiner, "than promoting the tribal code "an eye for and eye," set forth in Deuteronomy and Exodus, and suggesting it is a given right under the U.S. Constitution, absent of any due process. A Jewish or Christian sect preaching and practicing in such manner would be extreme and not tolerated.

I suspect, as concerns the Islamic issue, history will treat our 43rd President fairly well. That leaves, how will our freedom-loving citizens behave while this chapter unfolds. On viewing again the banner ..."to bigotry no sanction, to persecution no assistance"... **any lingering concern ... is confidently extinguished.**
