

# Spectrum

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The Journal of the Association of Adventist Forums

## Biblical Women

RUTH AND NAOMI—MODELS FOR  
20TH-CENTURY SURVIVORS

THE CONCUBINE AND THE CROSS

ZELOPHEHAD'S DAUGHTERS IN KENYA

GROWING UP ADVENTIST  
IN GOTHAM

ADVENTISTS AND AMERICA'S COURTS

BIG TOBACCO AND ADVENTIST  
MEMBERS OF CONGRESS

July 1998  
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# Spectrum

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Vol. 26, No. 5, July 1998

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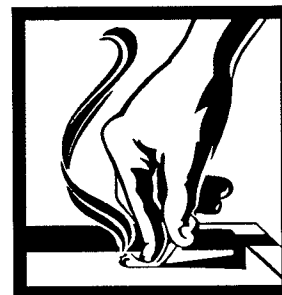
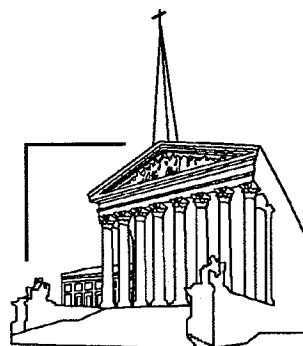
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# Commencement

A commencement always marks both a conclusion and a beginning. This is both a farewell and a welcome. With this issue I conclude 23 years as editor (three as co-editor), and begin my responsibilities as director of the denomination's Center for Law and Public Policy on Capitol Hill and professor of ethics and public policy at Columbia Union College.

*Spectrum* has been for me the wonder of seeing a dream fulfilled—one outlined in a paper for Otilie Stafford's Advanced Composition class at Atlantic Union College. I did not anticipate that later I would be asked to edit a dream. Fritz Guy says an editor is less a visionary than an automobile repairman, pounding out dents and smoothing scratches. Sometimes the recurring concreteness of a journal gives an editor the tangible reassurance that he has made a contribution; the satisfaction that a craftsman feels radiating from the enduring physical object he has helped to shape. Once in a while editing even seems like sculpting beautiful stone. (Writing is a lot harder—creating the original stone.)

There is a reason so many orchestra conductors and some professors and editors live so long—they love what they do. What

could be more invigorating than leading a seminar-without-walls, filled with colleagues and former students, joined by fascinating new personalities? What surpasses the fun of suggesting topics to authors and watching them light up—of course they will take on the project; they've just realized that they've been wanting to write on that subject for years! What is more rewarding than being told by readers that *Spectrum* has not just stimulated thought, but nurtured a sense of belonging, a renewed loyalty to a community of faith?

Thank you for making it possible for me to experience the rich delight of being an editor. I can with energy look forward to teaching students, and creating a new institution. I can relish the challenge of moving from chiseling others' creations to spending more time attempting the writer's wonderous act of creating something out of nothing.

The new editor of *Spectrum* is Bonnie Dwyer, until mid-September of 1998 the assistant to the president of Pacific Union College. Bonnie served as the news editor of *Spectrum* for seven years (1982-1989). Unless you count these editor's introductions, Bonnie has written more articles for

*Spectrum* than anyone in its history. A graduate of La Sierra University, she received an M.A. in journalism from California State University at Fullerton. She has since worked as an editor at La Sierra University and as a development consultant to several California healthcare and educational institutions. At the writers' conference Bonnie attended again this summer in Aspen, Colorado, friends celebrated her becoming the editor of *Spectrum* with a vegetarian cookout—appropriately, since Bonnie has written about vegetarian cookbooks for *Spectrum*, as well as about the Davenport financial scandal, the reorganization of the Adventist Media Center, and repressed memories of sexual abuse in Adventist schools.

The publisher of *Spectrum* is the Association of Adventist Forums. Les Pitton, executive vice-president of Adventist HealthCare, Inc., has served nine eventful years as its president. His combination of pastoral skills and business acumen have been crucial to both the association and *Spectrum*. In addition to recruiting women and younger members into leadership positions, Les saw to it that for the first time the Adventist Forums created an attractive booth at a General Conference Session, and that it will publish its third paperback, exploring the relation of science to religion.

The incoming president of the Adventist Forums is David Larson, a professor of

ethics at Loma Linda University, and a long-time *Spectrum* consulting editor. Dave, a graduate of Pacific Union College, received his Ph.D. in Christian ethics from the Claremont Graduate School. He is the co-director of the Loma Linda University Center for Christian Bioethics, which he helped to found. Under his leadership, the ethics center has expanded its endowment, increased the frequency of its academic conferences, published several books, and established a widely read bioethics newsletter. Dave has often written for *Spectrum*, including an outline of Christian ethics used ever since in Adventist ethics courses, an exploration of the morality of miracles, and, most recently, a major essay on John Wesley and Adventist theology.

I look forward with great anticipation to what Bonnie and Dave do with *Spectrum*. Both of them cherish *Spectrum's* nurturing of Adventism through publication of fresh ideas and proposals for action. Bonnie (the first woman to edit *Spectrum*), will undoubtedly take the journal in unexpected directions. The new editor's greatest tribute to *Spectrum* will be to love it and change it. Journals, like traditions, flourish only if they are neither rejected nor repeated by rote. Journals, like traditions, only flourish if they are living organisms—satisfyingly recognizable and constantly changing.

—Roy Branson



# Growing Up Adventist In Gotham

Two Adventist leaders remember Brooklyn and Harlem.

## Adventist in Brooklyn's Coney Island

by James J. Londis

I was born on Coney Island, borough of Brooklyn, city of New York, on October 7, 1938, the oldest of what would become three brothers in the family. My mother had just turned 18 and my father worked at odd jobs. We lived in an upstairs tenement over Hal and Gertie's candy store at 532 Neptune Avenue, one block from the Van Siclen elevated train station and right on the MacDonald Avenue Trolley Line. My small, two-bedroom apartment was a five-block walk from the city's most popular beach and what had to be at the time the largest amusement park in the United States. On any July 4 weekend, one million people dotted the white sands looking out on the ocean. Now I realize that Coney Island was an unusual place to be born, to grow up, and to discover the Seventh-day Adventist Church.

*James J. Londis, Director of Ethics and Corporate Integrity at Kettering Medical Center, has served as president of Atlantic Union College and senior pastor of the Sligo Seventh-day Adventist Church. He received his Ph.D. in the philosophy of religion from Boston University and has published widely, including God's Finger Wrote Freedom (Review and Herald, 1979).*

Close to Coney Island is Sheepshead Bay, where my step-grandfather kept his fishing boat dubbed *The Ruptured Duck*. Inside Coney Island was another amusement center known as Steeplechase Park, which boasted swimming pools, saunas, handball courts, punching bags, ping pong, and world-famous rides and amusements, including the one that blew the dresses of unsuspecting young women up over their heads. Virtually anytime I wanted to go to Steeplechase Park I bypassed the admission ticket by climbing over the fence behind the handball courts. Some of my Greek relatives worked the rides, concessions, and hot dog stands in the park.

Brooklyn was then a borough larger than most of the cities in the United States, including Chicago. It was also the home of the Dodger "bums," who could never beat the hated "Bronx Bombers" Yankees in the World Series. And hate them we did. It is a matter of honor for me that I never attended a baseball game in Yankee Stadium. As a boy I went regularly to Ebbets Field because my mother was a rabid fan of the Dodgers. Waiting after the games for autographs, I met Jackie Robinson, "Preacher Roe," and Carl Furillo. I was there for Carl Erskine's no-hitter and for Gil Hodges' four home runs in one game.

Like many New Yorkers, I rarely traveled outside the city limits. I limited my wandering to what the city provided through public transportation. What reason did I have to go anywhere? Everything I

needed was right there. As the cultural, entertainment, and financial center of the country, New York gave any child the sense that he or she could do anything.

On my father's side, a strange religious accommodation had occurred. His mother (my *yaiya*) brought her devotion to the Greek Orthodox faith with her from Greece to the United States, and she raised her children accordingly. Somewhere along the way, my grandfather (*papou*) abandoned his Orthodox heritage and was ordained a lay preacher in the Pentecostal mission, just downstairs from their apartment on Stillwell Avenue (two blocks from the beach). The rest of the family saw this as an eccentric departure from the Orthodox faith, but were forced to indulge him. After all, he was their Greek family's patriarch.

On my mother's side, my grandma Henrichsen looms large in my religious upbringing. She saw to it that I either went to her Lutheran church or to my papou's Pentecostal mission. My mother and father (separated when I was seven or eight years old) were not at all religious. She and my father were both "secular," though he was more intellectual about it and called himself an agnostic.

After my father and mother separated, Mom applied for welfare, so she could stay home and care for us. With fairly regular help from her mother and stepfather ("Uncle Rudy"), she managed to keep food on the table and pay the rent in a relatively timely fashion. I do recall a number of occasions when our credit at the local grocer was canceled and our landlord received his rent many weeks after the due date.

At Public School 100, my neighborhood friends were also poor (some more so than I), while my friends from Brighton Beach (largely Jewish) were distinctly lower middle-class. I attended their Bar-Mitzvahs and very much enjoyed Jewish culture, New York-style—especially the food: bagels, matzos, and pickles.

At that time, Coney Island was a breeding ground for hoodlums and mobsters. It had already become infamous in the late forties for the mysterious death of a star witness against the mob. Shortly before the trial was to begin, while he was being guarded by the police, someone threw him out of an upper-story window of the Half Moon Hotel.

Friends of mine in elementary school were often sent to reform school for theft, gang fights, truancy, and stealing. Arthur Kelly reportedly became a hit man for the Brooklyn mob run by the Bonnano family. Before he reached 30, he was killed gang-

land-style. Tommy Grossman was convicted of selling drugs and stabbing someone in a Coney Island hotel. I bumped into Herbie Ross on the train one evening. He had hijacked a truckload of radios and television sets with two other guys and then decided to doublecross them. So, to hide effectively, he was riding the subway non-stop for one week. It is impossible to find somebody constantly on the move like that. Both Herbie and Tommy eventually made the headlines of the *Daily News*.

My early adolescence also involved my witnessing a terrible episode of physical and sexual abuse of younger boys by older ones. Equally pathetic was the heterosexual prostitution available. Across the street from my tenement was a men's social club, where the neighborhood enjoyed illegal off-track betting through bookies. Even Henry Hench, a handsome, local detective who was a good friend of my mother's, ignored the activity. My mother enjoyed betting. Just before my elementary school graduation, she won the "triple." With her \$400 winnings, she bought me a new suit, a stereo, and a tape recorder as presents for my graduation.

During the summers, I played baseball in the Police Athletic League system, went swimming in the Lincoln High School pool, and enjoyed the beach and amusements of Coney Island. As I got older, the subway afforded me the chance to travel anywhere in the city I wanted to go. Times Square was only an hour by train from Coney Island. I remember when I was 10 years old, Kenny Rose stole \$20 from his mother and took several of us to Times Square. We saw the movie *Eagle Squadron* starring Robert Stack. We ate pizza and ice cream until we were gluttoned. I also got used to stealing bread from the bakery and watermelons off the fruit truck that came through our neighborhood.

## From Milton Berle to Baptism

That all began to change one fateful Friday night. I showed up at my grandmother's apartment to watch the Milton Berle television show. Then in its infancy, television was a special treat for my generation. Since my mother did not own a television (forbidden if you were on welfare) and my grandmother did, once a week we walked the five blocks to my grandmother's. This particular night, a middle-aged Bible worker representing *Faith for Today* visited my grandparents. They had watched the program and signed up for the Bible course. Clearly annoyed at this disruption of my plans, I started to

leave. My grandmother then placated my brother and me by promising us that she would leave shortly and we could still watch some television.

This pattern continued for a number of Friday nights, until a young pastor named John Stevens began to visit. At that point, I took more interest in the Bible studies and started attending the city-wide Carnegie Hall evangelistic meetings being conducted by Elder Roy Allan Anderson. The moderator for each meeting was a youthful J. R. Spangler. E. L. Branson was the conference president at this time. I also began attending church with my grandparents. Dr. Frederick E. J. Harder baptized my grandparents and me in the Washington Avenue Seventh-day Adventist Church in March of 1952. Nine months later, a close friend, Ron Halvorsen, was also baptized. Together, the two "Coney Island boys" would enjoy an exciting three and one-half years as Adventist young people in Brooklyn. What we were about to discover was the way in which the Seventh-day Adventist Church would expand our horizons far beyond even those provided by the exciting city of New York.

At that time, the Greater New York Conference may have been the most culturally diverse in the North American Division. Post World War II immigrants filled pews. I attended and preached in the Danish-Norwegian, Swedish, Yugoslavian, Italian (two of them), Estonian, German, and Spanish churches. In Harlem, there was the very large, dynamic Ephesus church, which boasted numerous choirs. As small as it was (80 students), the Greater New York Academy reflected this diversity.

## 'Teenage Evangelists

**I**n the fall following my baptism, I attended Greater New York Academy. Ron entered the school second semester (January of 1953) right after his baptism in December 1952. Our Bible teacher was Kenneth Vine, who later became president of Middle East College and dean of the Division of Religion at Loma Linda University. Interestingly enough, a high percentage of our teachers at the academy either had master's degrees or were working on them at places like Columbia and New York University.

As new converts, we were "on fire" with our new-found faith. Our passion for the church and for preaching the Adventist message was intense, more so than many of the academy students raised as Adventists. Ron and I got our first taste for witness-

ing by joining some of the young married couples from the Washington Avenue congregation. They preached on street corners in downtown Brooklyn, usually around Pacific Street. On a weekly basis, people like Artie Campbell and Harry Marcellino, supported by a revered Bible worker named "Sister Ferguson," rolled out the prophecies, the Sabbath, the mark of the beast, the state of the dead, and the second coming of Christ. Since Ron and I lived in the city and were not dependent on our parents to transport us even as early teens, we went anywhere in the city public transportation could take us. Many Sabbath afternoons we handed out literature and knocked on doors.

During that time, things seemed to be exploding in New York for Adventists. *Faith for Today* was becoming a nationally recognized religious television program, its stations increasing almost daily around the country. A number of us in the academy actually acted on live television for those early programs. We knew the Fagals and the *Faith for Today* quartet personally. Even though our numbers were tiny in comparison to the millions who lived in New York City, we all felt a growing sense of pride about the Adventist Church.

Our families and friends got interested in this new religion we had embraced, so they asked Ron and me to share what we knew through Bible studies. We eventually had so many appointments during the week that it was affecting our schoolwork. We mentioned our dilemma to Elder Vine, who half-jokingly suggested that we hold public meetings in our neighborhood so we would have only one night a week to worry about. That week, we brought the subject up with my grandparents. My "Uncle Rudy" offered to pay the rental fee for a hall if we could find one.

My mother suggested we talk with the men's club directly across the street from our apartment. I did. I offered them \$5 a night rent, once a week, and they accepted (only later did I learn they would have done it for \$2, so desperate were they for cash). The hall was quite small, with a potbellied stove to heat it. When we announced that we had procured a hall, we suggested that either Elder Vine or one of the young pastors in the conference do the preaching. That idea was vetoed immediately. They told us that we were the only ones who would be able to attract people from that neighborhood to the meetings. So, with that unique excitement that comes from rising to an unexpected challenge, we practiced our sermons in front of our Bible teacher and other young pastors.

We signed an agreement with the men's club,



and, with the help of academy friends and others, we cleaned out beer cans, dust, and dirt, and set up chairs borrowed from the local churches. We advertised the meetings throughout the neighborhood. Students acted as organists, ushers, and audio-visual assistants. The first night, 62 people showed up. By the fourth week of the meetings, the conference had alerted the media. They indicated they would send out a reporter. That fourth week, we had arranged for the Faith for Today quartet to sing, and Ron was scheduled to preach. Eighty people (including a reporter from the prestigious *New York Herald Tribune*) showed up that night, more than the little hall could handle. For our Coney Island neighborhood, this was a glamorous event. A quartet that sang on television and a newspaper reporter asking them for their views of the meetings!

The following Sunday, in the religion section of the paper, the headlines read: "Teenage Gangsters Turn Evangelists." Gangsters? While this appellation possessed a modicum of truth (more for Ron than for me), it naturally struck our mothers as degrading. Fortuitously, Virginia Graham, then the most famous talk show interviewer on television with her program *Food for Thought*, read the article in the paper and arranged for us to be interviewed on her program. What started out as a simple attempt to witness to our neighborhood had become a major media event. From preaching in a Coney Island storefront, we went to preaching in Adventist churches throughout the Atlantic Union, talking with news reporters and now appearing on a major television program to tell our "story." It was a dizzying expansion of our horizons.

When we arrived at the Manhattan studio (by subway, of course), we were ushered into Ms. Graham's dressing room during her hair styling and make-up preparation. She urged us to relax, look into the camera, and speak naturally. Spread in front of her was the news article about us (last-minute "boning up," I decided). While much of the program looked into our personal lives, at the end we were invited to say a word to the "youth" who might be watching. We testified to the Adventist message about the soon-coming Jesus and the need for young people to get serious about life. On that note, the program ended. Rather than wash off the make-up we had been wearing, we wore it all the way home on the subway.

In the early spring, at the close of a church service in upstate New York where we had just told our story during the sermon, conference president E. L.

Branson and youth leader Joseph Barnes made a startling announcement. The Pan-American Youth Congress, scheduled for San Francisco in early June, planned to devote Thursday evening to youth witnessing in the North American Division. The planning committee had decided to select two examples out of the many dozens submitted. Even though the teens involved had to be at least 16 (we were only 15) someone had submitted our story for consideration. Elder Branson informed the congregation that in spite of our ages, the story of the Coney Island boys was one of the two to be featured that Thursday evening at the youth congress. The Greater New York Conference was paying our way to San Francisco. We would be interviewed in front of 10,000 Adventists from the Americas. Neither Ron nor I had ever been farther from New York City than New Jersey or Pennsylvania. Elder Kenneth Vine, his wife Betty, and her aunt drove us across the country to the congress. On the way, we saw Niagara Falls, corn and wheat fields in the Midwest, the Rocky Mountains, including Garden of the Gods, Pikes Peak, Glacier, Zion, Grand Canyon, Yosemite, and Bryce National Parks. Our pictures appeared in the special edition of the San Francisco newspapers published for the youth congress. We had tasted celebrity Adventist-style. It was delicious.

In subsequent years, Ron and I continued to preach in local churches, as well as in other conferences. I also sang in a quartet that traveled a lot. We often practiced on the subway going home, always an interesting experience for us and the passengers. Years later, while attending a family wedding, my wife, children and I were eating breakfast in a diner when a quartet broke into song. My son quipped: "Only in New York."

## Courier for Christ

Working is an integral part of an Adventist education and philosophy. While many students did not work during the school year (after all, two hours travel round-trip and a school day that ended at 3:30 p.m. did not leave much time), a number did. Some worked for teachers at the academy. However, I did work for more than a year as the person who picked up the mail for *Faith for Today* from their lower Manhattan Post Office Box 8. Even though the ministry was located in Forest Hills, Queens, it advertised a New York City mailing address. Coming from Coney Island, I passed right by that train stop in lower Manhattan. My job was to leave 40 minutes earlier than usual (5:45-6:00 a.m.), pick up the mail,

which was stuffed into large mailbags weighing 25 pounds apiece (two or three bags on Mondays, one the other days), and take them to the Forest Hills office before school started. Then I got back on the train and went to the academy for the 8:00 a.m. class. Needless to say, I was late so often I almost flunked that first-period typing class.

I took the responsibility of picking up the mail very seriously. To begin with, the names in those bags were "precious souls" whose salvation might depend on *Faith for Today* being able to enroll them in the Bible course or answer their questions. Also, the offerings to support the program were in those envelopes, most of which came in cash during that era. In my naïveté, I assumed that the cash I was carrying might be in the hundreds of dollars, so thought no more about it. One day, someone mentioned to me that more than \$10,000 had come in that Monday, most of it in cash. I felt a stiffening of the hair on the back of my neck, and my knees began to shake. This was not information I wanted anyone to have. I had already been mugged on the subway and was not interested in anyone knowing that kind of cash was in those mailbags.

Shortly after this discovery, I had a harrowing experience picking up the mail that forced a policy and procedural change. It is hard for those who do not dwell in cities to imagine the pandemonium on the subway at rush hour. People literally run to catch an open door and push with all their might to squeeze in, even when the car is too full. Carrying two bags, one in front and one behind, I ran for the train. I got there just as the door was closing and pushed my way in. However, when the rubber-edged door closed around my back wrist, I could not get the mailbag in the car. Since the door was closed, the engineer started the train. I had to hold that mailbag until the next stop as it bounced wildly in the wind just outside the car door. Obviously, dropping the mailbag was simply not an option.

Jackie Robinson steals home.



That was it. I had had it. I decided to skip class that morning and raised a ruckus at *Faith for Today*. I told them that with so much money and the responsibility of those names, sending a teenager by train to pick up the mail bordered on insanity. They needed to send a courier by car and improve their security. They agreed, and I lost my job. I began spending afternoons at *Faith for Today* painting and cleaning.

## Never Bored in the Lord

At this same time, Oliver Beltz was in New York to assist with the Carnegie Hall evangelistic meetings. He organized a city-wide choir. With the assistance of Robert McQuade, a fine young organist pursuing advanced organ studies, Beltz began to make an impact on Adventism in the city. Ron and I joined that choir, as well as the church choir. McQuade conducted at the Washington Avenue congregation in Brooklyn. Almost overnight, Ron and I went from Jo Stafford, Frank Sinatra, Perry Como, Nat King Cole, and the early stages of rock 'n' roll to the classical religious repertoire, including Ralph Vaughn Williams, the *Messiah*, and Mendelssohn's *Elijah*. We performed not only in Adventist churches, but also at Grand Central Station, Times Square, and other well-known venues in the city. That was also a time when Herbert Blomstedt, later conductor of the Dresden Philharmonic and the San Francisco Symphony Orchestra, was studying at the Juilliard School of Music. The talent pool in the city, whether in graduate school or in the ministry, was immense.

Ingathering meant walking door-to-door in cold weather. A car followed, whose loudspeakers played Christmas carols sung by the King's Heralds, the Faith for Today quarter, Del Delker, and Mario Lanza. New Yorkers decorate their homes for Christmas in spectacular ways, so people are in the mood to give. We sang at Rockefeller Plaza and Times Square until our throats were hoarse. Not even apartment houses could stop us. We laid a sheet on the lawn. When people opened their windows to investigate the source of the carols, we shouted that they could throw money down to us. June Croft was the best (and shrewdest) solicitor of all. She would go to the Waldorf Astoria Hotel and stop wealthy patrons coming in and out of their limousines. Catching a crowd at the end of a Broadway show was also a big money-getter. Unhappily, we also solicited in bars (with our girls) and thought

we were doing God's work when half-drunk, leering sailors and soldiers gave \$10 bills.

All Adventist boarding schools were (and most still are) located in rural areas. It was assumed that cities corrupted and natural surroundings civilized. I readily admit that there is some validity in this assumption. However, from my own experience, let me share with you the positives of an Adventist education in the city.

First, we stayed at home with our parents and in local churches filled with the people who knew us best and who cared intensely for us. In my local church at Washington Avenue, young married couples and older "mothers in Israel" nurtured and prayed for Ron and me. We were in their homes for meals and in so many ways made to feel special. Our academy teachers were also very generous with their time.

Second, we were never bored. Bored in New York City? Bored in the Lord? While the academy was the center of our social lives on Saturday night (there was always something going on), we often did things after the social either downtown or at someone's apartment. Because we often accompanied the women to their homes on the subway, we men often ended up getting home well after midnight. On "day" dates in groups or as a couple, there were so many acceptable things to do by Adventist standards, that Ron and I never felt cheated out of fun.

Academically, we were stimulated and challenged. Besides the quality of the teachers at the academy, we would do our research papers at the New York Public Library or, like Roy Branson, write an article for the *Youth's Instructor* based on attending an open orchestra rehearsal conducted by Arturo Toscanini. During my teens I attended concerts at Carnegie Hall, and heard soprano Lily Pons sing in a theater, which broadcast her voice over radio to the nation. On Sundays, several of us would go uptown to hear Norman Vincent Peale, Ralph Sockman, or Harry Emerson Fosdick preach in their nationally famous pulpits. A city has the tacky and seamy. It also exposes young people to excellence and greatness.

There is no doubt that growing up in New York City, and spending my teen years there as an Adventist, definitively shaped my interests, convictions, and personality. To this day, when I meet an Adventist teenager from New York, there is a certain self-assurance ("street-smarts"), love for the local church, and insouciance I find engaging. Granted, some of them are outspoken, blunt, "loud," and "in-your-face." Look beyond all that, and you will find

that the city breeds intensity, passion, zest for life, loyalty, toughness, creativity, and confidence. The city and the city church still expand an Adventist young person's horizons.

Not bad.

## My Harlem Renaissance

by Henry E. Felder

The Harlem of the 1950s was an exciting place for a 12-year-old. My life—family, school, Adventist church—reverberated to the sights and sounds of Harlem's streets. The streets of Harlem were alive with the sights and sounds of a dynamic and growing part of New York City.

## The Family

I was the third of 10 children who grew up in a financially challenged household. My father worked at the Brooklyn Navy yard as a welder, while my mother worked in a clothing factory. In addition to siblings, there was an extended family that included grandparents, a favorite uncle, Nathan, aunts, and numerous cousins who lived in Harlem, or nearby in New Jersey. My maternal grandfather owned a small farm in northern New Jersey and was the patriarch of the family. Sometimes during the Christmas season, Grandfather Mitchell would come with Uncle Nathan bringing turkey, money, toys, and gifts to the small apartment where we lived. My mother had a warm and comfortable relationship with her father and brother. My father participated somewhat grudgingly in this seasonal ritual, disturbed no doubt that he was not able to afford the material things that made Christmas such an important part of a child's life.

My mother was the driving force in the lives of her children. As a teenager, she was introduced to

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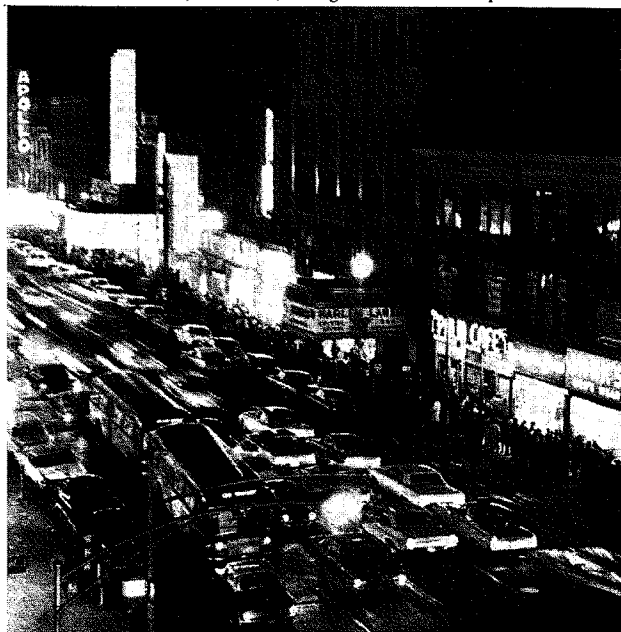
Henry E. Felder received his Ph.D. in economics from Stanford University. He is dean of the School of Business and Management at La Sierra University, and the author of *Making Ends Meet: Financial Planning for the Christian Family* (Review and Herald, 1994) and *Changing Patterns of Black Family Income* (Joint Center for Political and Economic Studies, 1984).

and joined the Seventh-day Adventist Church. Later, when she and my father married and started their family, he consented to the children being raised as Adventist.

## The School

My mother and father shared the idea that education was essential, if as black Americans, we were to escape poverty. Although neither of my parents completed high school, all of their children not only completed high school, but seven completed college and five went on to postgraduate degrees, including doctorates in medicine and economics. Through prayer, sacrifice, and the support of members of the Ephesus Seventh-day Adventist Church, most of my siblings and I started out at the Manhattan Adventist Elementary School. The school was located on 150th Street in Manhattan, on the upper floors of the City Tabernacle Adventist Church. The school was small and frequently cold in the winter. What the school lacked in amenities, it made up for in the dedication of its teachers. My fourth-grade teacher, Miss Riley, taught for more than 40 years, most of it at Manhattan Elementary. The school principal, who was also my second-grade teacher, Dorothy Young, was a disciplinarian who was unstinting in her determination that her charges would grow up to become noble citizens of this world and the next. At Manhattan Elementary, the Bible and the writings of Ellen

Harlem's main street, 125th Street, looking toward the famous Apollo Theatre.



White were as essential as the English and math textbooks. That small school instilled in me the moral and academic values that later helped propel me to college, graduate school at Stanford, and a senior appointed position in the administration of President Ronald Reagan.

## The Church

The Ephesus Seventh-day Adventist Church was another critically important institution in my 12-year old life. Ephesus was located on 123rd Street and Lenox Avenue. In 1955, Ephesus had a membership of about 1,500, which made it the largest black church in the denomination, indeed one of the larger churches in Harlem. Community events were held there, as Sunday night speakers included many delegates to the United Nations. The Sabbath morning service was formal, predictable, and in the best tradition of a nearly Methodist liturgy. The church seated more than 1,000 people, in a rectangular shape with a balcony on three sides, and a set of beautiful angels over the rostrum.

The church elders seemed always dressed in black or a subdued blue. These were men whose lives as black Americans were frequently drab and depressing as doormen, elevator operators, and janitors. On Sabbath morning they came alive. Sabbath work was white-collar work. Here at church, they were allowed to be in charge, to preside, to intone the Malachi injunction, "... Freely you have received, freely give, ... For the Lord loveth a cheerful giver." These men were constants in my life.

The elders could always be counted on to be at church Sabbath morning, to make the service memorable, even if sometimes painfully long. The deacons patrolled the church, maintaining law and order. The young were banished to their parents, or to an assigned seating section in the balcony where we could be collectively watched. During the church service, the deacons could cut your conversations short with just a look!

At Ephesus, church was an all-day affair. Sabbath school moved into the morning service, followed by lunch in the church basement, and then three or four afternoon meetings that took in all age groups. Sabbath school, for me, was notable because of John Matthews, who would spend some of the time having each of us read the Bible until we made a mistake of any kind. Then he would interpret what we had read in the context of the Sabbath school lessons. The morning worship service started at

11:15 a.m. and could be counted on to last until 1:30 p.m. or later.

Some families began Sabbath afternoon fellowship with the lunches they had brought. By mid-afternoon, the programs began. One program was for the older members, then junior and senior Missionary Volunteer meetings. Even though, at age 12, I was expected to participate in the JMV, the MV programs were too compelling. The day was concluded with games at night. There was a social at least once a month that featured a special type of Adventist dancing—the march!

On the street where we lived, there were about 50 families, with well over 100 children. Few on that street went on to college—many of its youth never made it past adolescence. How was it possible that my family was able to send so many of its children to college, with seven completing? The major variables were the church and my mother's determination to send her children to church school. The Ephesus church was the embodiment of all that the Adventist church stood for. Its sermons and ceremonies were reinforcing and nurturing, and its theology was certain. Few controversies intruded on the preparation of its youth to take their places in society. If anything could overcome the disadvantages of growing up in Harlem, it was growing up in the Ephesus Seventh-day Adventist Church.

## The Neighborhood

I enjoyed the usual relationship with my siblings that one could expect with two adults and nine children [at that time] in a three-bedroom apartment. Space was at a premium, and in order to gain some of my own, I often took to the streets. This meant taking the subway wherever I wanted to go, but mostly I walked around Harlem.

Harlem is a six-square-mile enclave in the upper end of Manhattan Island. Manhattan, the smallest of the five boroughs making up New York City, runs approximately 13 miles from north to south and two miles from east to west. Manhattan is surrounded by the Harlem River to the northeast and north, the East River to the east, the Hudson River to the west, and New York Bay to the south. Manhattan is the site of virtually all of the skyscrapers that are the symbol of New York City, and is the business and financial heart of the United States. It is what most of the world thinks of when New York City is invoked. In 1955, Manhattan had a population of nearly two million people. While the exact population of

Harlem was not known, it was estimated at nearly 300,000 people. In 1955, it was the largest community of African-Americans in the United States.

Harlem stretches loosely from 103rd Street in the south at the start of Central Park to 155th Street in the north, and from the East River to the Hudson River. Within its boundaries are famous institutions, such as Columbia University, New York City College, Grant's Tomb, and the Cathedral of Saint John the Divine. Harlem was still enjoying the results of the "Renaissance" that elevated the arts and black American society to one of its highest pre-World War II cultural levels.

Bisecting Harlem is 125th Street, a commercial strip that ran in an east-west direction. Each of the approximately 15 avenues that run north and south and crossed 125th Street had its own character. Seventh Avenue was home to the beauty parlors, nightclubs, and brownstones that provided one of the many middle-class enclaves to the community. During its trek through Harlem, one of the most famous addresses in the rest of Manhattan, Fifth Avenue, was home to many middle-class enclaves.

## The Heritage

Harlem did not start out as a slum or as a ghetto. In its early days, around the turn of the century, it was a suburb for whites. In 1904, several black families moved into Harlem, seeking an escape from decaying conditions in lower Manhattan. In 1910, various black realtors and a church group bought up large blocks along 135th Street and Fifth Avenue. These purchases precipitated "white flight" in neighborhoods above 125th, and led to speculative increases in real estate prices. In the years that followed, large numbers of blacks joined a mass movement of African-Americans who fled from the oppression of the Southern states and settled in the major Northern cities. Many ended their sojourn in Harlem.

In New York City, a confluence of events led to the start of the Harlem Renaissance in 1925. At the center were black intellectuals, such as the W.E.B. Du Bois and Alain Locke, with doctorates from Harvard, and poets and writers such as Contee Cullen, Langston Hughes, Jessie Fauset, Zora Hurston, James Weldon Johnson, Jean Toomer, and Arna Bontemps, who would later teach at Oakwood College. They were joined by wealthy black patrons, such as Madame Walker, who founded a hair

treatment company and was at one time one of the wealthiest women in America. Graceful brownstone houses lined 136th Street—its owners, patrons of the arts. African-American life was highlighted in poetry, literary societies, and all of the arts. For example, Paul Green's play of southern Negro life, *In Abraham's Bosom*, won a Pulitzer Prize in 1927. Harlem became the intellectual center of African-American life and looked disdainfully down on such pretenders as Washington, D.C. and Atlanta.

At its height, however, the Renaissance touched only a tiny fraction of the black community in Harlem. Du Bois has spoken of the "talented tenth," but the percent who actually participated was far less. Even as the Harlem Renaissance flourished, the seeds of the shift of Harlem, from enclave to ghetto to slum, were very much present. The Great Depression took its toll on Harlem, as it did in all other parts of the country. By the mid-1930s, almost 50 percent of its adult population was unemployed. Harlem was served by a single public medical facility, with only 273 beds. The social and health indicators, which were never good, became even more devastating for African-Americans.

Finally, on March 19, 1935, in retaliation for the mistreatment of a black youth at the hands of white store clerks, thousands of angry Harlem residents swept down Lenox Avenue, destroying white-owned commercial property. Hundreds were arrested, several blacks were killed, and the Harlem Renaissance was over. By 1955, the slow descent into an urban nightmare was well on its way. While there remained many areas of superb housing and a vibrancy and intellectualism that continues to this day, Harlem was only a shadow of its prior glories.

## The Street—125th

Christmas was a special time for exploring Harlem. My Christmas walks began at my house on 128th Street, between Second and Third Avenues. From there I proceeded to 125th Street, and then west toward Eighth Avenue. The first stop was at the office of the Salvation Army, which made sure that any child who wanted one would receive a toy during the Christmas season. (To this day, I try always to drop a dollar in the bell ringers during the season). Then, on to Park Avenue for the best 15-cent hot dogs in New York, at the New York Central train station. Christmas lights decorated 125th Street starting at Madison Avenue and continuing on to Eighth Avenue. The stores were festive and crowded.

It was during this time that Blumstein's Department store, Harlem's largest and made notable by a giant Santa Claus that towered over 125th Street like an overseer, started hiring black clerks.

My journey took me past the storefronts that started at Fifth Avenue and continued unbroken to Amsterdam Avenue. At Lenox Avenue it was two short blocks to the Ephesus church. But on these trips it was the city that I wanted to see. I peeped into the lobby of the Theresa Hotel when I reached Seventh Avenue. At one time, the Theresa Hotel did not admit blacks, and, in a twist of irony, was made famous in 1960 when Fidel Castro stayed there. Other hotels did not want a Communist in their midst. Seventh Avenue and 125th Street was also the corner on which Muslims under Elijah Muhammed and his most famous disciple, Malcolm X, would rail against racism and white devils. Father Divine had a famous temple on Eighth Avenue. During the depression, Father Divine was one of the few able to feed large groups of hungry Harlem residents. For these acts, he was rewarded by the faithful with adoration bordering on fanaticism. He had grown rich and extravagant, but remained a hero to the locals.

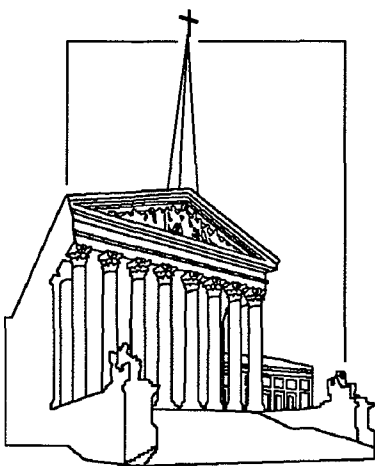
There were many things that made Harlem especially joyous to a 12-year-old. Long before drugs, decay, and death became hallmarks of Harlem, it was an exciting part of New York City. In the 1950s, there was a sense of accomplishment and the energy from a solid middle class in the heart of New York. On December 1, 1955, Rosa Parks of Montgomery, Alabama, decided that she did not want to move to the back of the bus. Her defiance spawned the start of the last phase of the civil rights movement that, ironically, may have been part of the reason for Harlem's decline. With the civil rights movement, blacks gained access to the suburbs and moved away from the city. Harlem lost many of its middle class and possibly its soul.

After 1955, Harlem continued a slow decline that would only stop when massive funds were used to revive 125th Street. By that time, it was too late. The Harlem of the Renaissance period and of my youth was no more. But, during those shining days in the mid-50s Harlem was a pretty neat place for a 12-year old boy.

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# Adventists and America's Courts

The Adventist Church has helped to make U.S. constitutional history. In turn, the courts have influenced Adventist history.

by Ronald L. Lawson

SECTS, ACCORDING TO STARK AND BAINBRIDGE, are marked by a high "state of tension" with their "surrounding sociocultural environments."<sup>1</sup> Tension is characterized by difference, separation, and antagonism, for a sect and its surrounding society "disagree over proper beliefs, norms, and behavior."<sup>2</sup>

It is not surprising that differences, tensions, and antagonisms have often resulted in conflicts that have been fought out in courts. The first case to argue the Free Exercise of Religion Clause of the U.S. Constitution before the Supreme Court (*Reynolds v. United States*, 1879) upheld the ban on polygamy among Mormons.<sup>3</sup> Jehovah's Witnesses have also been the focus of major cases before the U.S. Supreme Court. The *Minersville School District v. Gobitis* decision (1940) found that American schools had the right to compel children to salute the national flag during daily

assembly. In the wake of this decision, violence and intimidation against Witnesses increased dramatically, fanned by wartime patriotic fervor. However, in the midst of World War II, in *Bamette v. West Virginia State Board of Education* (1943), the Supreme Court courageously reversed its earlier decision.<sup>4</sup>

Seventh-day Adventist beliefs have also fostered norms and behavior that have resulted in tension and conflict with American society and have often been fought in court. The most frequent source of dispute has been the Adventist belief that Saturday is the Sabbath. Insistence by Adventists on refraining from work from sundown Friday to sundown Saturday and, earlier, that they should be free to work on Sunday, have resulted in arrests, loss of jobs, and ultimately court cases. Other Adventist practices that have resulted in court battles included their refusal to bear arms in wartime or to join and contribute to labor unions, and also their wish to solicit door-to-door and sell religious publications. In recent decades the Adventist Church, its medical, educational, and publishing institu-

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tions, and its members as such have also become increasingly involved in court suits. Two of these cases, in particular, have been cited frequently in subsequent court opinions.

## Influencing and Influenced by the Courts

Seventh-day Adventists have been involved in a number of landmark court cases bearing on both the Free Exercise and Establishment clauses of the First Amendment of the U.S. Constitution and on statutory law. The main issues have included security of employment for Sabbath observers, the right of persons dismissed from their jobs for reasons of conscience to unemployment compensation, the right of those with conscientious objections to bear arms in the military to become citizens, and the freedom to choose not to join a labor union.

Some of its cases created key judicial precedents in the area of religious liberty. One case that reached the U.S. Supreme Court (*Sherbert v. Verner* 1963) became a pivotal case in the application of the religion clauses of the Constitution. Indeed, the Adventist Church, its medical, educational, and publishing institutions, and its members as such have become increasingly involved in court suits in recent decades.

While cases focusing on Mormons and Witnesses have received considerable attention from scholars, this has not been so with those focusing on Adventists. By tracking changing issues, outcomes, and the growing ease of Adventists with the courts over time, it

is possible to trace the decreasing tension of the Seventh-day Adventist Church with its surrounding sociocultural environment.

## Cases Related to the Military and Unions

Adventism's involvement in the U.S. court system began in earnest during World War II. Although Adventists conscripted into the military during World War I had faced punishment for refusing to do basic training on their Sabbath, the new close relationship between the Adventist Church and military

authorities during World War II usually ensured that problems were avoided or solved amicably. The fact that American Adventist conscripts refused to bear arms did not, then, result in court cases.

A group of cases focused on aliens whose applications for citizenship were opposed by the Immigration Service because they refused

to state unequivocally that they were willing to bear arms. One such application, by a non-combatant Adventist soldier, was upheld in court. The court's opinion appealed to the Selective Service and Naturalization Acts, which had created a noncombat service classification and provided for the naturalization of persons performing military duties. The statutory oath of allegiance no longer implied a willingness to bear arms.<sup>5</sup> However, when a noncombatant pastor's wife declared that she would be willing to participate in any kind of war work except to use a weapon, she was denied citizenship.<sup>6</sup> Finally, in the first case involving an Adventist to reach the Supreme Court, the

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*Cases involving Adventists have created key judicial precedents in the area of religious liberty. Sherbert propounded the first clear theory of the Free Exercise Clause of the Constitution and became an important precedent, cited in all relevant Free Exercise cases.*



Court held that Congress had not intended to make a promise to bear arms a prerequisite to naturalization. The Supreme Court said that it was an error to deny citizenship to applicants who were ready to defend the constitution, but because of religious scruples, declared that they would not take up arms to defend the U.S.<sup>7</sup>

In the 1970s, the Adventist Religious Liberty Department became involved in a series of cases endeavoring to help Adventists having job problems because of their refusal to join unions and at the same time make favorable case law. These cases were usually brought under Title VII of the Civil Rights Act of 1964 as amended in 1972 in Section 701(j). It argued that the law obliged both employers and unions to make good-faith efforts to honor the exemptions requested by employees with a conscientious objection to union membership unless this would result in undue hardship.<sup>8</sup> Once it was amended, section 19 of the NLRA was also utilized.

These cases were conclusively settled in *Nottelson v. Smith* (1981), *Tooley v. Martin-Marietta Corp.* (1981), and *International Association of Machinists and Aerospace Workers v. Boeing* (1987), which found that the accommodations requested were reasonable and did not impose undue hardship, and thereafter protected all with religious scruples against union membership.<sup>9</sup>

Although the courts were shown that the Seventh-day Adventist Church "teaches that it is morally wrong to be a member of or pay dues to a labor organization,"<sup>10</sup> this was never a test of fellowship. In fact, for the past several decades, Adventists have been union members. Those who have taken the anti-union position seriously have tended to be more conservative members who continue to try to abide by the writings of Ellen White; they are predominantly Caucasian.<sup>11</sup> Most such Adventists tend to vote Republican and to have occupations that do not make them eligible for

union membership. On the other hand, union membership is much more frequent among members of minority racial groups, who are much more likely to be employees and to vote Democrat.<sup>12</sup> Coverage of the teaching on union membership in Adventist publications has declined sharply in the last 15 years, with the result that today many members are not aware of it.

## Cases Flowing From Sabbath Observance

Two Supreme Court cases, one in the 1960s, the other in the 1980s, used the Free Exercise Clause to address the issue of an employee who was fired for refusing to work on her Sabbath being declared ineligible for unemployment benefits. The first of these was an appeal by Adell Sherbert, who had worked a five-day week in a textile mill in South Carolina until 1959, when the work week had been changed to include Saturday for all three shifts. Her refusal to work on that day had resulted in her dismissal. When her conscientious scruples prevented her from taking new employment that would require her to violate her Sabbath, Sherbert applied for unemployment benefits. She was denied them on the ground that she had failed to accept suitable work offered to her—a decision that was affirmed by both her county court and the South Carolina Supreme Court.

However, the U.S. Supreme Court reversed this decision, finding that Sherbert's disqualification from benefits on these grounds "imposed a burden on the free exercise of her religion."<sup>13</sup> Justice Brennan's opinion drew attention to the fact that South Carolina law expressly shielded a Sunday worshiper from having to make the kind of choice imposed on Sherbert: "When in times of 'national emergency' the textile plants are authorized. . . to operate on Sunday, 'no employee shall be

required to work on Sunday . . . who is conscientiously opposed to Sunday work; and if any employee should refuse to work on Sunday on account of conscientious . . . objections he or she shall not jeopardize his or her seniority . . . or be discriminated against in any manner."<sup>14</sup>

*Sherbert* was the first case in which the Court upheld a free-exercise claim that was not also supported by free-speech concerns. As such, it [propounded the first clear theory of the Free Exercise Clause of the Constitution]. Building on the earlier Jehovah's Witness cases, *Gobitis* and *Barnette*, the court's opinion applied the doctrine of "strict scrutiny"—the level of court concern, requiring that the state demonstrate a compelling interest if a decision running counter to a religious belief is to withstand challenge—and spelled it out. *Sherbert* consequently [became an important precedent, cited in all relevant Free Exercise cases].

A similar case with a different wrinkle was decided by the Supreme Court in 1987. After working in a Florida jewelry store for more than two years, Paula Hobbie had informed her employer that she was joining the Seventh-day Adventist Church and could no longer work scheduled shifts on Friday nights

and Saturdays. When she was dismissed, she filed for unemployment compensation. Her request was denied on the basis of "misconduct" connected with her work. This ruling was affirmed by the Unemployment Appeals Commission and the Florida Fifth District Court of Appeals.

However, the Supreme Court, in another Brennan opinion, reversed this decision and confirmed *Sherbert*. "When a State denies receipt of a benefit because of conduct mandated by religious belief, thereby putting substantial pressure on an adherent to modify his behavior and violate his beliefs, that denial must be subjected to strict scrutiny and can be justified only by proof of compelling state interest."<sup>15</sup> This case extended the application of *Sherbert* to a situation where conflict between employee and employer was caused by the former changing religious beliefs rather than the latter altering work rules.

Hobbie's case was prepared and argued by the staff of the Legal Department of the General Conference of Seventh-day Adventists; indeed, it was "the first church-backed case argued in the United States Supreme

## Adventists in U.S. Courts—1891–1997

In *Re Adventist Living Centers*, 52 F. 3d 159 (7th Cir. 1995)

*Beadle v. Tampa*, 42 F. 3d 663 (11th Cir. 1995)

*Cooper v. Oak Rubber Company*, 15 F. 3d 1166 (6th Cir. 1994)

*Cowan v. Gilliss*, 81 F. 3d 160 (6th Cir. 1996)

*Dawson v. Mizell*, 325 F. Supp. 511 (USDC, ED, VA, 1971)

*Equal Employment Opportunity Commission and Silver v. Pacific Press Publishing Association*, 535 F. 2d 1182 (9th Cir. 1976)

*Equal Employment Opportunity Commission v. Pacific Press*, 676 F.

2d 1272 (9th Cir. 1982)

*Espinoza v. Rusk*, 634 F. 2d 477 (both Cir. 1980)

*Genas v. State of New York*, 75 F. 3d 825 (2d Cir. 1996)

*General Conference Corporation of Seventh-day Adventist v. Seventh-day Adventist Congregational Church*, 887 F. 2d 228 (9th Cir. 1989)

*General Conference Corporation of Seventh-day Adventist v. Seventh-day Adventist Kinship, International, Inc.* (USDC, CD CA, 1991. Case No. CV 87-8113 MRP, unentered)

*Giroud v. United States*, 328 U.S.

61 (1946).

*Hinsdale Hospital Corporation v. Shalala*, 50 F.3d 1395 (7th Cir. 1995)

*Hobbie v. Unemployment Appeals Commission*, 480 U.S. 136 1987

*International Association of Machinists and Aerospace Workers v. Boeing*, 833 F. 2d 165 (9th Cir. 1987)

*Jackson v. Veri Fresh Poultry, Inc.*, 304 F. Supp. 1276 (District Court, E.D. Louisiana 1969)

In *Re King*, 46 F. 905; *Circuit Court*, W.D. Tennessee (1891)

In *Re Kinloch*, 53 F. Supp. 521 (District Court, W.D. Washington 1944)

Court by a church-employed attorney."<sup>16</sup> Supporting *amici curiae* briefs were filed by an astonishingly diverse list of religious groups—including the American Jewish Congress, the Baptist Joint Committee on Public Affairs, and the Catholic League of Religious and Civil Rights. All these groups feared that *Sherbert* might be reversed, for they saw its broad interpretation of the Free Exercise Clause as in their best interest.

The *Sherbert* and *Hobbie* decisions represented a considerable advance for Adventists in protecting their right to unemployment benefits should they be fired for refusing to work on their Sabbath. However, protection of their jobs was a more important goal. The passage of equal employment legislation eventually allowed Adventists to address some of the ramifications of this problem in the courts. Title VII of the Civil Rights Act of 1964 raised the possibility that this dream would become a reality. It prohibited an employer from discriminating against an employee on the basis of "race, color, religion, sex, or national origin."

However, how this was to be applied to cases where a sabbatarian refused to work on

Saturday was unclear, with the result that the cases invoking it produced contradictory results.<sup>17</sup> Some cases brought by Adventists used different grounds, but without success.<sup>18</sup> An amendment, Section 701(j), which was added to the Act in 1972 at the instigation of Senator Jennings Randolph, who was himself a sabbatarian (a Seventh Day Baptist), sought to strengthen the position of sabbatarians by requiring that an employer try to accommodate an employee's religious scruples unless doing so would be an "undue hardship."<sup>19</sup>

Nevertheless, the first cases that sought to define the meaning of the amendment again gave contrary opinions and sometimes evenly divided courts. One court opinion noted: "We recognize that the problems arising from the fact that Seventh Day [sic] Adventists are forbidden to work on Saturdays are troublesome ones and that the courts have not been in accord in their thinking on the subject."<sup>20</sup> The key case, ultimately, proved to be *Trans World Airlines v. Hardison* (1977), which involved not an Adventist but a member of the Worldwide Church of God. *Hardison* acknowledged that an employer must accommodate an employee's religious beliefs and

*Lake v. Goodrich*, 837 F. 2d 449 (1st Cir. 1988)

*Lewis v. Seventh-day Adventist Lake Region Conference*, 978 F. 2d 940 (6th Cir. 1992)

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*Tooley v. Martin-Marietta*, 648 F. 2d 1239 (9th Cir. 1981)

*United States v. City of Albuquerque*, 545 F. 2d 110 (10th Cir. 1976)

*United States v. Schwimmer*, 279 U.S. 644 (1929)

practices unless they cause undue hardship. However, it also determined that anything beyond *de minimis* cost would be undue hardship. This definition was so narrow that it provided a poor foundation on which to build cohesive case law. As a result, each succeeding case largely turned on its particular facts and circumstances.

The *Hardison* decision also found that employers are not obliged to violate the seniority provisions of collective bargaining agreements to protect the religious scruples of employees. Because seniority provisions often allowed workers with seniority to choose the shifts that gave them weekends off, this meant that new Adventist employees could not be accommodated.

A General Conference lawyer described *Hardison* to me as a “huge loss”<sup>21</sup>—and, indeed, this has proved to be so. A review of the first 30 reported cases after *Hardison* found that it had become more difficult to win cases focusing on the weekly Sabbath, as compared with those dealing with less-frequent religious holidays, because the frequency and recurring nature of the conflict made it more likely that the courts would declare this a hardship.<sup>22</sup> Since that time, the stronger cases have tended to be settled out of court, so that they have made no contribution to case law. Most of the cases that have gone to court have been lost on the basis of undue hardship.<sup>23</sup>

Following the *Hardison* case in 1977, court victories have been few and less decisive.<sup>24</sup> It proved to be especially difficult for sabbatarians to prevail when a collective bargaining agreement between an employer and a union representing the employees was in place. An Adventist employee was likely to find that he or she faced “almost insurmountable difficulties” because the intransigence of the union guarding cherished seniority provisions. The Adventist position on this issue, which is so

important to them, has been sorely weakened by the antagonism generated among labor unions by the earlier attempts to excuse church members from union membership. The effect of the *Hardison* decision on the employer removed any flexibility from the situation.<sup>25</sup>

Three victories in 1996 gave some of the sabbatarian lawyers hope that the tide might finally be turning. In one of these, the U.S. Court of Appeals for the Ninth Circuit found that the employer—the State of California—had failed to establish undue hardship.<sup>26</sup> Two other Adventists won cases that year in state courts as diverse as Montana and New York.<sup>27</sup>

However, that same year, 1996, a case in the Second Circuit of the U.S. Court of Appeals brought by Kingsley Genas, an Adventist employee of the State of New York Department of Correctional Services, against the department and several of its officers, underlined the extent to which the Supreme Court’s decision in *Employment Division v. Smith* (1990) had muddied the waters. In *Smith*, the Supreme Court had rejected, for at least some Free Exercise challenges, the compelling state interest standard, as established in *Sherbert* (1963). It had held that the Free Exercise clause is not offended by a generally applicable law that burdens religious practice if the burden on religion is not the object of the law, but merely the “incidental effect” of an otherwise valid provision. The Second Circuit case was complicated because it invoked both the Free Exercise Clause and case law rooted in Title VII: Genas had claimed that the department and officers had breached the Free Exercise Clause by refusing to accommodate his need to observe his Sabbath. When the defendants’ motion for summary judgment was denied, they appealed the decision.

The Court found, in its preliminary decision, that since a collective bargaining agreement had been in place, whose purpose had not been to burden religion but to establish a neutral and fair method of awarding shifts (in

this case, via seniority), the officers could reasonably believe that their actions were in accord with *Smith*: "[t]hrough the duty to reasonably accommodate the religious preferences of employees has been clearly established, it has not been established that an employer acting under the terms of a collective bargaining agreement must do more to accommodate religious preferences than is required by the agreement."<sup>28</sup> That is, on the basis of the *Smith* decision, the court threw out the constitutional argument based on the Free Exercise Clause, and restricted the litigation to statutory law, Title VII.<sup>29</sup>

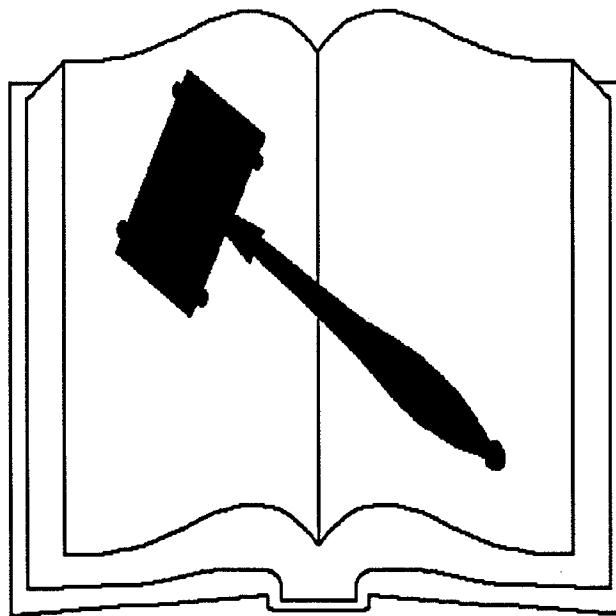
*Smith* dismantled the protections for Sabbatarians put in place by *Sherbert* in cases where the action being challenged could be seen as generally applicable and neutral in scope. However, *Sherbert* still held where this was not the case. Congress set out to undo what was widely seen as the harm done by *Smith*, by passing the Religious Freedom Restoration Act of 1993. With this act, Congress explicitly re-established a compelling state interest test, similar to that which had been created by *Sherbert*. However, when its constitutionality was tested, the Supreme Court voided the law.<sup>30</sup>

The *Smith* decision by the Supreme Court, and the attempt by Congress to find a legislative remedy in the Religious Freedom Restoration Act, demonstrate that in recent years Congress, more than the courts, has become more protective of religious freedom and of the interests of churches. This raises the question of why the Adventist Church does not channel more of its resources into lobbying and encourage members to become involved in politics. It may be that it feels that the likelihood of it gaining influence in this sphere is severely limited by its relatively small numbers. However, the impact of Senator Jennings Randolph, who came from the much smaller Seventh Day Baptist community, illustrates what is possible.

## Other Free Exercise Cases

Adventists fought cases focused on the Free Exercise Clause when local authorities attempted to restrict their door-to-door activities. In 1976, Adventists sought injunctive relief when their "literature evangelism" ran into problems in Laramie, Wyoming, because their colporteurs received a commission on sales. Relief was granted because the colporteurs were credentialed ministers and their activities were judged to be essentially religious.<sup>31</sup> In 1980, Adventists also fought a case in Albuquerque, where the city had judged their solicitation, or "Ingathering," to be secular, and thus requiring a permit. The city pointed out that the funds raised helped to support such church activities as medical, community, and educational services. The church, insisting that these activities were part of its religious mission, asked the court to declare the ordinance unconstitutional. The court agreed.<sup>32</sup>

A few cases have focused on the right of an Adventist to observe the standards of his church while in prison. For example, *Rayes v. Eggers* (1994) focused on the demand of the



prisoners for an Adventist-sanctioned diet. Brought without legal assistance from the church, and poorly documented, it was lost. The problems of Adventist prisoners were described to me as the kind of issue that the Adventist Church is not eager to pursue.<sup>33</sup> This is not because no Adventists are sentenced to prison or that jailhouse conversions to Adventism are rare. Quite the contrary: Although many problems are solved through negotiations, there are a number of potential cases dealing with such issues as dietary problems, Sabbath observance problems, and difficulties with access to worship in prison. However, church leaders are reluctant to pursue them. In part, this seems to be because of a socially conservative law-and-order mentality among Adventist leaders: They comment that one should expect to lose rights when one goes to prison. In part, it is because church leaders often view the plaintiffs as unattractive figures: They are afraid that supporting these members would prove a public relations liability.<sup>34</sup>

## Commercial Suits by and Against Adventist Institutions

As Adventist institutions, hospitals, universities and colleges, publishing houses, health food factories, nursing homes, and retirement centers have become less separated from society, they have inevitably become involved in such secular matters as commercial lawsuits. I list three random examples: a suit against an Adventist food company over a breach of trademark law concerning the name of a product (*Loma Linda Food Company v. Thomson & Taylor Spice Co.* 1960); a suit by Hinsdale Hospital against the Federal Department of Health and Human Services over Medicare reimbursement (*Hospital Corporation v. Shalala* 1995); and a suit by a food seller against a nursing home for food deliv-

ered shortly before it filed for bankruptcy protection (*Reinhart Institution Foods Inc. v. Adventist Living Centers* 1995).

## Personal Suits Against the Adventist Church and Its Institutions

The growth of Adventist institutions, and the closer involvement with society that inevitably followed, also exposed Adventism to government regulation and to legal suits from government agencies designed to bring institutions into conformity with the law when church leaders resisted. These suits were usually brought at the behest of church members. The most important of these are a series of suits brought in the 1970s against the Pacific Press Publishing Association of Mountain View, California. In 1972, Merikay Silver, an editor at Pacific Press, approached the general manager asking that her salary be raised to a level commensurate with her male colleagues. He not only refused her request, but added that no woman there was receiving equal pay; as long as he headed the publishing house none ever would.<sup>35</sup> When informal efforts failed to resolve the dispute, Silver filed a class action suit under Title VII of the Civil Rights Act of 1964<sup>36</sup>—the same antidiscrimination law invoked by Adventists in their efforts to retain their jobs in Sabbath employment cases. With Lorna Tobler, a co-worker, Silver also filed with the EEOC complaints for sex discrimination and retaliation.<sup>37</sup>

Silver's original request to the Pacific Press had invoked the vote of the Annual Council of the General Conference the previous year, 1971, to change the wage scale for North America to allow women to receive a "head of family" allowance if they were in fact acting as such.<sup>38</sup> Adventist leaders had originally reacted strongly against the new labor laws,

seeing them as instances of the government telling the church what to do. The church sought a different solution to their need to be regarded as in compliance with the Federal regulations. However, the negotiating team, which was headed by Neal Wilson, then president of the church in North America, was eventually persuaded to comply in this manner in order to save the church from being seen as in opposition to the government.<sup>39</sup> When Pacific Press rejected Silver's request, it was therefore in violation of the Adventist Church's new policy. Although, as a separate corporation, it was legally free to do this, such independence by an Adventist institution was highly unusual.

Wilson claims that he tried to use the moral authority of the church leadership to encourage Pacific Press to comply with the church's new policy.<sup>40</sup> However, this was without avail. Shortly afterward, he and other church leaders became heavily involved in the press's defense. The defense was based principally on the Free Exercise Clause of the First Amendment. The Adventist Church's dogged persistence in this flowed from beliefs that its institutions, as religious organizations, were immune to antidiscrimination laws, and from a fear of state interference that was rooted in its apocalyptic expectations of persecution at the hands of the American government.

Indeed, church leaders became so determined to win the case that at the quinquennial General Conference Session (the only occasion at which changes in doctrine or the *Church Manual* can be voted) in Vienna in 1975 they pushed through two changes in the

manual that were designed to strengthen the hand of the press in this case. First, the General Conference in session modified the rule that only local churches can disfellowship members by creating a loose disciplinary relationship among congregations in which a church employee holds membership and the employing organization. Henceforth the congregation and the denominational employer would inform each other about any action against the member-employee. Second, the session added to the reasons for church discipline: "Instigating or continuing legal action against the church or any of its organizations or institutions, contrary to Biblical and Ellen G. White counsel."<sup>41</sup>

Since all employees of the Pacific Press had to be Seventh-day Adventist Church members in regular standing, these changes, especially the second one, could have made it easier for church authorities to secure the

dismissal of Silver and Tobler. The president of the press, who was senior elder of the local Adventist church, invoked the first change in moving—unsuccessfully—to have his congregation disfellowship Tobler.<sup>42</sup> However, after news of the second change became known, it ran into such strong opposition from Adventist lawyers in America that it was excluded when the manual was reprinted.<sup>43</sup>

The court brief from Pacific Press did claim that lawsuits against the church by members were doctrinally prohibited—a statement whose historical support was exaggerated.<sup>44</sup> Moreover, the press used the contravention of this "doctrine" by Silver and Tobler as the ground for dismissing them. This action subsequently became the center of the EEOC

*The Fifth Circuit Court's opinion regarding the Pacific Press broadened the Title VII Civil Rights provisions to millions of employees of religious institutions. The court's opinion has been frequently cited in other Free Exercise and Establishment of religion cases.*

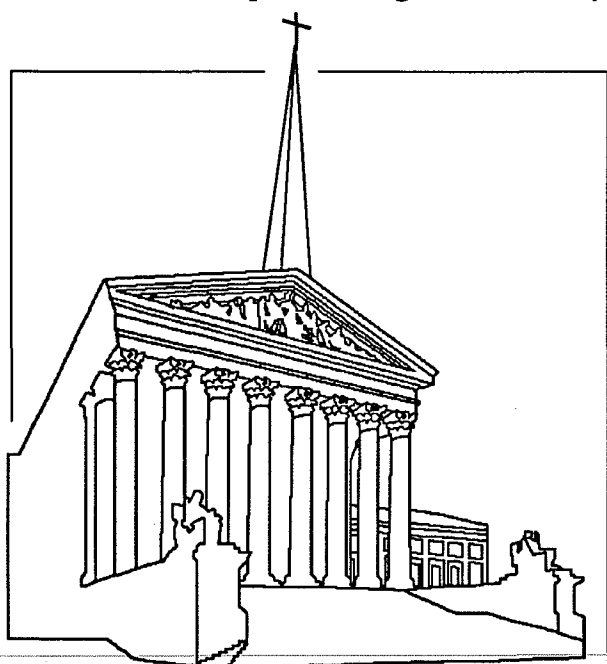
charge that the press had retaliated against them because they had filed an antidiscrimination suit based on Title VII.<sup>45</sup>

Ultimately the total number of suits flowing from this dispute grew to five, two of which were taken to the Ninth Circuit Court of Appeals. Silver, worn down by long delays and the emotional tension of the cases, eventually settled her suit out of court. The key case became that filed by the EEOC on behalf of Tobler (1982). It charged sex discrimination and retaliation in violation of Title VII. When the district court found for Tobler, the press appealed the case to the court of appeals. However the latter upheld the lower court's decision. Its opinion found that Congress had intended to prohibit religious organizations from discriminating among their employees; that Tobler fell under the provisions of the act because she did not, as the press had argued, fulfill the functions of a minister; and that the application of Title VII to the publishing house did not violate the First Amendment. Moreover, even though Tobler's dismissal was based on her violation of a church doctrine prohibiting lawsuits by

members against the church, Title VII established compelling governmental interest in eliminating employment discrimination. Its prohibition of retaliation applied to the press. To permit retaliation by the press against Tobler would have resulted in the withdrawal of the protection of Title VII from the employees of the many diverse Adventist institutions in the U.S.<sup>46</sup> The opinion noted that if Tobler had been disfellowshipped, the case would have become immune from judicial review. However, after her dismissal from employment at the press, Tobler's local church had certified that her membership was in good and regular standing.

By the time the Fifth Circuit Court's decision was announced, two of its other decisions pointed in the same direction.<sup>47</sup> The Pacific Press opinion broadened the impact of the application of Title VII to religious institutions, confirming that it could be applied constitutionally to at least some of the employees there. The court opinion also validated some of these employees as secular workers rather than ministers.<sup>48</sup> The court's opinion has affected the rights of millions of employees of religious organizations. The opinion has since been cited widely in other cases. It has also been cited frequently in other cases where government regulation of religious activity is challenged as a violation of the Establishment Clause. The case also emphasized that the absolute free exercise claim made by attorneys for the press is not part of American constitutional law.<sup>49</sup> Adventist leaders chose not to appeal the decision to the Supreme Court. By that time, it was clear that they would have lost there also, thus compounding the significance of the outcome.

The Pacific Press cases were fought during the same period as Adventists were working, in Congress and the courts, for the right of members to opt out of labor unions. The





cases also followed on the heels of a period when church leaders had become openly concerned about the possibility of labor unions organizing the employees of their institutions. Church leaders were especially worried about the hospitals, where the proportion of non-Adventists in the workforce was increasing rapidly. Such concerns had first been expressed in 1957, and by 1960 guidelines had been issued to hospital administrators that were designed to forestall the establishment of labor unions in Adventist hospitals.<sup>50</sup>

These fears became more pressing when amendments to the National Labor Relations Act in 1974 extended its coverage to non-profit healthcare institutions and allowed employees to vote on whether to have a union represent them. Although the amendments allowed employees to opt out of a union for religious reasons,<sup>51</sup> there was no such provision for institutions owned by churches. When employees at an Adventist-owned nursing home petitioned for an election, the National Labor Relations Board, despite objections from the nursing home, ordered an election. It found that Congress had intended that the act apply to healthcare institutions operated by religious institutions in general, and by the Adventist Church in particular. However, although only three of the 146 employees eligible to vote were Adventists, the union lost. When a second election was scheduled at an Adventist hospital,<sup>52</sup> the Adventist Church went to court to have the election declared void and unconstitutional. This action was rendered moot when again the union lost the election.<sup>53</sup>

By the early 1970s, church administrators were worried about the possibility of labor problems emerging in the institutions that were usually staffed exclusively by Adventists, so they expressed considerable concern about Adventist teachers and professional organizations:

The church asked its teachers to carefully examine professional organizations before joining or supporting them to determine whether they operated as labor unions in addition to pursuing professional objectives. As a substitute for membership in organizations that might be perceived as unions, the denomination urged Adventist educators to organize themselves into an Association of Seventh-day Adventist Educators.<sup>54</sup>

The Pacific Press cases raise the question of the extent to which the Adventist anti-labor union position was now driven by the church's role as an employer of what had become a huge workforce; by its desire to use religion to maintain low wages; and by the ability of the church's "old boy network" to monopolize positions of power.

Increasing numbers of other members pressed suits against their church that did not attract the intervention of government agencies. The most significant of these was brought by Carole A. Rayburn, a woman who, after earning a Ph.D. in psychology, had then completed a Master in Divinity at an Adventist seminary. When she was denied a pastoral position, she charged the church with—again—sexual discrimination under Title VII of the Civil Rights Act of 1964.<sup>55</sup> When the church



was granted summary judgment in the U.S. District Court for the district of Maryland, her appeal was heard by the U.S. Court of Appeals, Fourth Circuit, in 1985. The court commented that the case raised "significant questions about the application of the civil rights laws to churches."<sup>56</sup> It explored the difference between the *Pacific Press* case, where the defendant was a church-owned institution and the plaintiff, the court had decided, was not a minister, and the *Rayburn* case, where the church itself was sued by a would-be minister.

The case highlighted the tension that had developed between the constitutional protection of freedom of religion and the attempts, through statutes, to eradicate all forms of discrimination. On the one hand, in the *Pacific Press* case, Title VII permitted religious discrimination—religious institutions were allowed to insist on hiring their own members—but Title VII did not permit discrimination on the basis of sex, race, etc. On the other hand, the court in *Sherbert* described the right of persons to believe and practice their beliefs according to conscience as "fundamental to our system." This freedom is also guaranteed to churches in their collective capacities, which must have "power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." Since "ecclesiastical decisions are generally inviolate," and "the right to choose ministers without government restriction underlies the well-being of religious community," attempts to restrict a church's free choice of clergy "constitutes a burden on [its] free exercise rights."

Given the tension described, everything depended on how the court balanced the two interests. It ruled that the balance weighed in favor of the free exercise of religion: that "the introduction of government standards to the selection of spiritual leaders would significantly, and perniciously, rearrange the rela-

tionship between church and state." That is, the Court of Appeals affirmed the judgment of the district court because "state scrutiny of the church's choice would infringe substantially on the church's free exercise of religion and would constitute impermissible government entanglement with church authority."<sup>57</sup>

The *Rayburn* decision has since often been cited in cases which have sought to apply civil-rights laws to churches and church-related organizations. For example, it was cited by the U.S. Court of Appeals, Sixth Circuit, in a case where a minister who had been dismissed by the Adventist Lake Region Conference alleged breach of contract because the conference did not follow its own procedural rules. The court held that the First Amendment barred civil review of a decision to discharge a minister even under such circumstances. The court also distinguished between the role of a minister, as in *Rayburn* (1985), and an employee of a publishing house, as in *Pacific Press* (1982).<sup>58</sup>

## Suits Brought by the Adventist Church

As the church leadership became more at ease with society, it increasingly adopted a corporate model for structure of the church. One corollary of this was the decision to trademark the name of the church, which it completed in 1981.<sup>59</sup> The purpose of this move, which came at a time when church leaders were becoming increasingly nervous about pluralism among Adventists, was to control which groups could use the church's name and, in particular, to prevent splinter groups or organizations which they regarded as unsavory from seeming to claim affiliation with the church.

This was a most unusual decision within religious polity, where we are used to multiple groups bearing the name "Baptist,"

"Pentecostal," "Methodist," or "Catholic," so that these names in fact signify broader "religious families." There is also a broad "Adventist" family, whose other members, such as the Advent Christian Church, like their Millerite forebears, continue to refer to themselves as "Adventists." Moreover, there is also a more circumscribed "Seventh-day Adventist" family, which includes such groups as the "Seventh-day Adventist Reform Movement," dating from about 1920, and various groups of "Davidian Seventh-day Adventists," who originally broke with the Adventist Church in the late 1930s. Because they have used the trademarked name for so long, the ability of the Adventist Church to force these groups to change names has, according to the legal doctrine of *laches*, vanished with the passage of time.

Consequently, when the General Conference of Seventh-day Adventists brought pressure on groups using the trademarked names in the latter-1980s, these were mostly "David and Goliath" maneuvers, in which the Adventist Church was cast as Goliath and took on small, recent, schismatic congregations which, without the resources to do battle in the court system, typically caved in on receipt of the initial threat. Only one of these cases, against a schismatic Hawaiian congregation, the Seventh-day Adventist Congregational Church, and its pastor, John R. Marik, reached the U.S. Court of Appeals (Ninth Circuit). But even in this case, the disparity in resources was central, for the mistakes made by Marik, who tried to represent the schismatic church himself, crippled its defense.<sup>60</sup>

*Adventist involvement in the courts has passed through phases. The first cases, when individual Adventists were arrested for working their farms on Sundays during the second half of the 19th century, confirmed the urgency of Adventist apocalyptic expectations.*

More dramatic was the suit against Seventh-day Adventist Kinship International, Inc., a "support group for gay and lesbian Seventh-day Adventists, their families and friends," in the U.S. District Court for the Central District of California, which was completed in 1991. The General Conference brief showed just how difficult it was to fit the language of a statute intended for commercial regulation to the activities of a church. The brief described everything in terms of unfair commercial competition. It made the claim that competition from SDA Kinship's newsletter was undermining its publishing empire

and that Adventists were likely to contribute heavily to SDA Kinship (mistaking it for the official tithe/offering conduit). The denomination's suit made no mention of homosexuality, or that this was an organization of gay and lesbian Adventists. However, the antipathy of Adventist leaders to gay and lesbian Adventists, particularly their carrying banners proclaim-

ing their name in Gay Pride parades,<sup>61</sup> is revealed by the fact that this was the only such suit where the Seventh-day Adventist Church sought damages: "Exemplary, punitive, and treble damages."

When church leaders filed this suit against an organization with fewer than 1,000 members, they failed to take the strength of the gay movement into account: The case was accepted by National Gay Rights Advocates, which arranged for Fullbright and Jaworski, a major legal firm, to defend Kinship on a *pro bono* basis. The church lost the case, at an admitted cost of more than \$200,000.<sup>62</sup> In her

opinion, Judge Mariana Pfaeizer pointed out that the term "Seventh-day Adventist" has a dual meaning, applying to the church but also to adherents of the religion. She found that the Seventh-day Adventist religion pre-existed the Seventh-day Adventist Church, that the uncontested use of the name by the Reform Movement and the Davidians indicated that the term does more than suggest membership in the mother church, and that the term, as used by Kinship, merely describes that organization in terms of what it is, an international organization of Seventh-day Adventists. Consequently, the judge found that "as used by SDA Kinship, the terms 'Seventh-day Adventist,' and its acronym 'SDA' are generic, and are not entitled to trademark protection."<sup>63</sup> Fearing a more devastating loss in the Court of Appeals, the General Conference chose not to appeal this result.

In 1996, an Adventist member offended by the fact that his church had trademarked its name, challenged its registration. The Trademark Trial and Appeal Board of the Patent and Trademark Office found the mark to be validly and federally registered: "for a period of over 130 years, the primary significance of the designation 'Seventh-day Adventist' has been to identify the source or origin of religious publications and services emanating from respondent [the Seventh-day Adventist Church]."<sup>64</sup> (Most members would no doubt be surprised to find the primary significance of the name of their church attached to such a commercial meaning.) When appealed to the Appellate Court, this decision was upheld in a case in which the appellant failed to appear.<sup>65</sup> The decision found that while *Adventist* was generic, *Seventh-day Adventist* was not. This decision cannot impinge on the right of the Seventh Day Adventist Reform Movement, the Davidian Seventh-day Adventists, or Seventh-day Adventist Kinship International, Inc. to use their names. But the court's decision can be used to prevent new

splinter groups within the Seventh-day Adventist family of religious groups from identifying their ties to it in their names.

## Conclusion

Adventist involvement in the courts has passed through phases that mark the movement of Adventism along the route from sect to denomination. The first cases, when individual Adventists were arrested for working their farms on Sundays during the second half of the 19th century, were much more than an economic imposition on members who had scrupulously observed their Sabbath on the previous day. The first cases confirmed the urgency of Adventist apocalyptic expectations. These distressing events reflected how separated Adventists were in their expectation of the imminent "end of the world." The ways in which neighbors reported them to the police and they were forced to endure arrest and imprisonment, revealed how communities viewed Adventists antagonistically. This confirmation of their apocalyptic expectations, together with the absence at that time of legal remedies for their plight, resulted in a fairly passive legal response to the problems.

There followed a period of some decades when the tension between Adventism and its social and political environment began to lessen. As Adventists built institutions and sought accreditation for them, they fought politically to delay the government persecution that they continued to believe would be the last sign heralding the return of Christ. Seventh-day Adventists consequently changed their position on military service from conscientious objection to noncombatancy, and began to experience upward mobility. This time of transition was marked by the almost complete absence of Adventists from the courts.<sup>66</sup>

Adventist cases returned to the courts dur-

ing World War II with the issue of would-be immigrants who were noncombatants. This occurred just as church relations with the U.S. military were strengthened by the military cadet training program. The years from the Korean War through the Vietnam War continued the sharp relaxation in tension. The U.S. military appointed Adventists as military chaplains. The church established a special military camp where noncombatants received their basic training. Adventists formed the majority in a biological warfare research program designed by the military especially for Adventists. The church accepted government grants by Adventist hospitals and educational institutions. Ultimately, Adventists even retreated from their commitment to noncombatancy in military service. The reciprocal acceptance by the U.S. Government of Adventists was symbolized by a major Supreme Court free exercise case,<sup>67</sup> which granted sabbatarians fired for reasons of conscience the right to unemployment benefits.

The period since the Vietnam War has celebrated and consolidated Adventism's new, much more comfortable relationship with society. With the multiplication of cases brought by Adventists into U.S. courts, the General Conference has concurrently restructured and expanded its legal department and sharply increased the proportion of cases litigated in-house.<sup>68</sup> The court cases of this period extended the protection of unemployment ben-

efits for those dismissed because of Sabbath conflicts to new converts; protected members with a conscientious objection to union membership; and recognized the right of Adventists to engage in door-to-door activity.

However, the majority of cases have not achieved their goal. They have focused on attempts to preserve the jobs of sabbatarians through application of the antidiscrimination clauses of Title VII of the Civil Rights Act. Because of a narrow interpretation given by the courts to the escape clause that accommodation should not cause an employer "undue hardship," the cases have brought little relief to Adventists. Although the coming of the five-day week removed many of the problems faced by sabbatarians, the increasing use of shift work in recent decades presents some Adventists with serious problems.

Throughout most of the history of Adventism, members who felt aggrieved by their church had little recourse. There was no effective internal mechanism for achieving justice available, other than, during her lifetime, attempting to persuade Ellen White, Adventism's charismatic figure, to intervene on their behalf. The denominationalizing of Adventism was reflected in, and in turn influenced by, its involvement in the courts. As the church moved from sect toward denomination, Adventists became more familiar with formal methods of dispute resolution. As part of this process, it developed a growing ease with use of the legal system.

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## NOTES AND REFERENCES

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3. It found that while the First Amendment guaranteed freedom of religious belief, it did not necessarily protect freedom for any sort of practice and behavior (Armand L. Mauss, *The Angel and the Beehive: The Mormon Struggle With Assimilation* [Urbana, Ill.: Univ. of Illinois Press, 1994], p. 21; and Edwin B. Firmage and

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4. M. J. Penton, *Apocalypse Delayed* (Toronto: Univ. of Toronto Press, 1985), p. 143; and J. A. Beckford, *The Trumpet of Prophecy: A Sociological Study of Jehovah's Witnesses* (New York: Wiley, 1975), p. 35.

5. In *Re Kinloch*, 53 F. Supp. 521 (District Court, W. D. Washington 1944).

6. The basis was three earlier cases (*United States v.*

*Schwimmer* 1929, *United States v. Macintosh* 1931, and *United States v. Bland* 1931) that had found against applicants who announced that they would not, as naturalized citizens, assist in the defense of the nation (In *Re Losey*, 39 F. Supp. 37 [District Court, E.D. Washington 1941]).

7. *Giroud v. United States*, 328 U.S. (1945).

8. Although the purpose of Senator Jennings Randolph in introducing the 1972 amendment that became Section 701(j) of the act was to apply it more readily to Sabbatarians whose jobs were threatened, the principle it established, that employers should accommodate the consciences of employees except where this would cause undue hardship, proved relevant also to cases where employees held a conscientious objection to union membership.

9. Nottelson and Tooley were both Adventists, but Nichols, the employee in Boeing, was not. The latter decision built upon *Tooley*.

10. *Nottelson v. Smith*, 643 F. 2d 445 (7th Cir. 1981).

11. However, the following reminiscence by a General Conference lawyer illustrates the diversity of opinion on this issue among Adventists: "I remember going to visit a labor leader in New York City who was puzzled by our members. In a nursing home that had been unionized, one SDA was the union representative, and another refused to join the union. The first was the wife of a pastor and the second was a local elder. Both were black."

12. Interview. (Footnotes marked *interview* refer to interviews conducted by Ron Lawson).

13. *Sherbert v. Verner*, 398 U.S. (1963).

14. S.C. Code, s 64-4.

15. *Hobbie v. Unemployment Appeals Commission*, 480 U.S. 136 (1987).

16. Robert W. Nixon, "Landmarks in the Law," *JD* (1988), 45-48.

17. *Jackson v. VeriFresh Poultry, Inc.*, 304 F. Supp. 1276 (District Court, E.D. Louisiana 1969); *Riley v. Bendix*, 330 F. Supp. 583 (District Court, M.D. Florida 1971).

18. *Martin v. Pacific Northwest Bell Telephone Company* 441 F. 2d 1116 (9th Cir. 1971); *Dawson v. Mizell*, 35 F. Supp. 511 (USDC, ED, VA, 1971).

19. Randolph stated, when speaking to the amendment, that its purpose was to "resolve many of the issues left open by prior 'Sabbatarian' cases, where employees had refused to work on their Sabbath and requested that their employers accommodate them."

20. *United States v. City of Albuquerque*, 545 F. 2d 110 (10th Cir. 1976).

21. Interview.

22. Thomas E. Wetmore, "Hardison Plus Five," *JD* 1983 pp. 23-24.

23. *Cooper v. General Dynamics*, 15 F. 3d 1166 (6th

Cir. 1994), *Beadle v. Tampa*, 42 F. 3d 663 (11th Cir. 1995), *Cowan v. Gilles*, 81 F. 3d 160 (6th Cir. 1996).

24. For example, *Lake v. Goodrich* 837 F. 2d 449 (11th Cir. 1988), where an Adventist won a grudging, split decision acceptance of a lower court decision when it was appealed by the employer to the court of appeals.

25. Lee Boothby and Robert W. Nixon, "Religious Accommodation: An Often Delicate Task," *JD* (1983), pp. 45-51.

26. *Opuku-Boateng v. State of California*, 95 F. 3d 1461 (9th Cir. 1996).

27. *New York City Transit Authority v. State of New York*, 651 N.Y.S. 375 (Court of Appeals of New York 1996); *Russell v. Butte Silver-Bow*, Montana Human Rights Commission, unreported (1997).

28. *Genas v. State of New York*, 75 F. 3d 825 (2d Cir. 1996).

29. The case is still in litigation at the time of writing.

30. *City of Boerne v. Flores*, No. 95-2074, 1997 WL 345322 (U.S. June 25, 1997).

31. *Tate v. Akers*, 565 F. 2d 1166 (both Cir. 1977).

32. *Espinoza v. Rusk*, 634 F. 2d 477 (both Cir. 1980).

33. Interview.

34. *Ibid.*

35. George Wood Colvin, Jr., "The Women, the Church, and the Courts: Sex Discrimination and the First Amendment," Ph.D. Dissertation in Government, (Claremont Graduate School 1986), p. 1.

36. *Equal Employment Opportunity Commission and Silver v. Pacific Press Publishing Association*, 535 F. 2d 1182 (9th Cir. 1976).

37. Merikay McLeod, *Betrayal* (Loma Linda, Calif.: Mars Hill, 1985).

38. General Conference of Seventh-day Adventists, *Autumn Council: Actions Pertaining to the North American Division* (Washington, D.C.: Review and Herald Publishing, 1971) pp. 39-45.

39. Interview.

40. *Ibid.*

41. Colvin, "The Women, the Church, and the Courts: Sex Discrimination and the First Amendment," pp. 300-307.

42. McLeod, *Betrayal*, p. 285.

43. Colvin, "The Women, the Church, and the Courts: Sex Discrimination and the First Amendment," p. 310.

44. *Ibid.*, p. 297.

45. *Ibid.*, p. 496. The claim of a religious belief against litigation is different from the usual Free Exercise claims that laws require petitioners to do something against their belief in the sense that the former focuses not on something the petitioner feels he or she cannot do, but would constrain someone else—an employee or member—from suing the church.

46. *Equal Employment Opportunity Commission v.*

*Pacific Press*, 676 F. 2d 1272 (9th Cir. 1982).

47. *Equal Employment Opportunity Commission v. Mississippi College*, 626 F. 2d 477 (5th Cir. 1980); *Equal Employment Opportunity Commission v. Southwestern Baptist Theological Seminary*, 651 F. 2d 277 (5th Cir. 1981).

48. Colvin, "The Women, the Church, and the Courts: Sex Discrimination and the First Amendment," p. 479-480.

49. *Ibid.*, pp. 476, 487, 575.

50. Robert C. Kistler, *Adventists and Labor Unions in the United States* (Washington, D.C.: Review and Herald Publishing, 1984), pp. 66, 67.

51. *Ibid.*

52. Hackettstown Community Hospital, in New Jersey.

53. Kevin Wilson, "Health-Care Institutions and Labor Unions," *JD* (1981), pp. 18-21.

54. Kistler, *Adventists and Labor Unions in the United States*, p. 69.

55. The irony of this case is that the position had been awarded to another woman.

56. *Rayburn v. General Conference of Seventh-day Adventists*, 772 F. 2d 1164 (4th Cir. 1985).

57. *Ibid.*

58. *Lewis v. Seventh-day Adventist Lake Region Conference*, 978 F. 2d 940 (6th Cir. 1992).

59. The General Conference registered a trademark on "Seventh-day Adventist," and "Adventist" in the U.S. A General Conference lawyer explained that although "SDA" was not listed, they were ready to assert that it

was protected under the umbrella if there were a controversy over it.

60. *General Conference Corporation of Seventh-day Adventist v. Seventh-day Adventist Congregational Church*, 887 F. 2d 228 (9th Cir. 1989).

61. Duncan Eva, "Letter to Various Church Employees," August 19, 1986.

62. Kenneth Edward Piner, "Seventh-day Adventist' Not Always a Trademark," *Spectrum* 22:1 (March 1992), pp. 63, 64.

63. *General Conference Corporation of Seventh-day Adventists v. Seventh-day Adventist Kinship, International, Inc.* (USDC, CD, CA, 1991. Case No. CV 87-8113 MRP, unentered).

64. Adventist News Network, *ANN Bulletin* (Seventh-day Adventist Church World Headquarters), March 8, 1996.

65. *Stocker and Perry v. General Conference Corporation of Seventh-day Adventists*, 95 F. 3d 1168 (Fed. Cir. 1996).

66. See Lawson's article in *Spectrum*, Volume 24, number 4, April 1995, for further information.

67. *Sherbert* (1963).

68. In addition to the General Counsel, who heads the department, its staff now contains five other full-time attorneys specializing in religious discrimination law and church-state relations; tax law; employee benefits and pensions; corporate and constitutional law; estate planning; employment, immigration and naturalization; and sexual misconduct.



# Commencement

A commencement always marks both a conclusion and a beginning. This is both a farewell and a welcome. With this issue I conclude 23 years as editor (three as co-editor), and begin my responsibilities as director of the denomination's Center for Law and Public Policy on Capitol Hill and professor of ethics and public policy at Columbia Union College.

*Spectrum* has been for me the wonder of seeing a dream fulfilled—one outlined in a paper for Otilie Stafford's Advanced Composition class at Atlantic Union College. I did not anticipate that later I would be asked to edit a dream. Fritz Guy says an editor is less a visionary than an automobile repairman, pounding out dents and smoothing scratches. Sometimes the recurring concreteness of a journal gives an editor the tangible reassurance that he has made a contribution; the satisfaction that a craftsman feels radiating from the enduring physical object he has helped to shape. Once in a while editing even seems like sculpting beautiful stone. (Writing is a lot harder—creating the original stone.)

There is a reason so many orchestra conductors and some professors and editors live so long—they love what they do. What

could be more invigorating than leading a seminar-without-walls, filled with colleagues and former students, joined by fascinating new personalities? What surpasses the fun of suggesting topics to authors and watching them light up—of course they will take on the project; they've just realized that they've been wanting to write on that subject for years! What is more rewarding than being told by readers that *Spectrum* has not just stimulated thought, but nurtured a sense of belonging, a renewed loyalty to a community of faith?

Thank you for making it possible for me to experience the rich delight of being an editor. I can with energy look forward to teaching students, and creating a new institution. I can relish the challenge of moving from chiseling others' creations to spending more time attempting the writer's wonderous act of creating something out of nothing.

The new editor of *Spectrum* is Bonnie Dwyer, until mid-September of 1998 the assistant to the president of Pacific Union College. Bonnie served as the news editor of *Spectrum* for seven years (1982-1989). Unless you count these editor's introductions, Bonnie has written more articles for



*Spectrum* than anyone in its history. A graduate of La Sierra University, she received an M.A. in journalism from California State University at Fullerton. She has since worked as an editor at La Sierra University and as a development consultant to several California healthcare and educational institutions. At the writers' conference Bonnie attended again this summer in Aspen, Colorado, friends celebrated her becoming the editor of *Spectrum* with a vegetarian cookout—appropriately, since Bonnie has written about vegetarian cookbooks for *Spectrum*, as well as about the Davenport financial scandal, the reorganization of the Adventist Media Center, and repressed memories of sexual abuse in Adventist schools.

The publisher of *Spectrum* is the Association of Adventist Forums. Les Pitton, executive vice-president of Adventist HealthCare, Inc., has served nine eventful years as its president. His combination of pastoral skills and business acumen have been crucial to both the association and *Spectrum*. In addition to recruiting women and younger members into leadership positions, Les saw to it that for the first time the Adventist Forums created an attractive booth at a General Conference Session, and that it will publish its third paperback, exploring the relation of science to religion.

The incoming president of the Adventist Forums is David Larson, a professor of

ethics at Loma Linda University, and a long-time *Spectrum* consulting editor. Dave, a graduate of Pacific Union College, received his Ph.D. in Christian ethics from the Claremont Graduate School. He is the co-director of the Loma Linda University Center for Christian Bioethics, which he helped to found. Under his leadership, the ethics center has expanded its endowment, increased the frequency of its academic conferences, published several books, and established a widely read bioethics newsletter. Dave has often written for *Spectrum*, including an outline of Christian ethics used ever since in Adventist ethics courses, an exploration of the morality of miracles, and, most recently, a major essay on John Wesley and Adventist theology.

I look forward with great anticipation to what Bonnie and Dave do with *Spectrum*. Both of them cherish *Spectrum's* nurturing of Adventism through publication of fresh ideas and proposals for action. Bonnie (the first woman to edit *Spectrum*), will undoubtedly take the journal in unexpected directions. The new editor's greatest tribute to *Spectrum* will be to love it and change it. Journals, like traditions, flourish only if they are neither rejected nor repeated by rote. Journals, like traditions, only flourish if they are living organisms—satisfyingly recognizable and constantly changing.

—Roy Branson



# Growing Up Adventist In Gotham

Two Adventist leaders remember Brooklyn and Harlem.

## Adventist in Brooklyn's Coney Island

by James J. Londis

I was born on Coney Island, borough of Brooklyn, city of New York, on October 7, 1938, the oldest of what would become three brothers in the family. My mother had just turned 18 and my father worked at odd jobs. We lived in an upstairs tenement over Hal and Gertie's candy store at 532 Neptune Avenue, one block from the Van Siclen elevated train station and right on the MacDonald Avenue Trolley Line. My small, two-bedroom apartment was a five-block walk from the city's most popular beach and what had to be at the time the largest amusement park in the United States. On any July 4 weekend, one million people dotted the white sands looking out on the ocean. Now I realize that Coney Island was an unusual place to be born, to grow up, and to discover the Seventh-day Adventist Church.

*James J. Londis, Director of Ethics and Corporate Integrity at Kettering Medical Center, has served as president of Atlantic Union College and senior pastor of the Sligo Seventh-day Adventist Church. He received his Ph.D. in the philosophy of religion from Boston University and has published widely, including God's Finger Wrote Freedom (Review and Herald, 1979).*

Close to Coney Island is Sheepshead Bay, where my step-grandfather kept his fishing boat dubbed *The Ruptured Duck*. Inside Coney Island was another amusement center known as Steeplechase Park, which boasted swimming pools, saunas, handball courts, punching bags, ping pong, and world-famous rides and amusements, including the one that blew the dresses of unsuspecting young women up over their heads. Virtually anytime I wanted to go to Steeplechase Park I bypassed the admission ticket by climbing over the fence behind the handball courts. Some of my Greek relatives worked the rides, concessions, and hot dog stands in the park.

Brooklyn was then a borough larger than most of the cities in the United States, including Chicago. It was also the home of the Dodger "bums," who could never beat the hated "Bronx Bombers" Yankees in the World Series. And hate them we did. It is a matter of honor for me that I never attended a baseball game in Yankee Stadium. As a boy I went regularly to Ebbets Field because my mother was a rabid fan of the Dodgers. Waiting after the games for autographs, I met Jackie Robinson, "Preacher Roe," and Carl Furillo. I was there for Carl Erskine's no-hitter and for Gil Hodges' four home runs in one game.

Like many New Yorkers, I rarely traveled outside the city limits. I limited my wandering to what the city provided through public transportation. What reason did I have to go anywhere? Everything I

needed was right there. As the cultural, entertainment, and financial center of the country, New York gave any child the sense that he or she could do anything.

On my father's side, a strange religious accommodation had occurred. His mother (my *yaiya*) brought her devotion to the Greek Orthodox faith with her from Greece to the United States, and she raised her children accordingly. Somewhere along the way, my grandfather (*papou*) abandoned his Orthodox heritage and was ordained a lay preacher in the Pentecostal mission, just downstairs from their apartment on Stillwell Avenue (two blocks from the beach). The rest of the family saw this as an eccentric departure from the Orthodox faith, but were forced to indulge him. After all, he was their Greek family's patriarch.

On my mother's side, my grandma Henrichsen looms large in my religious upbringing. She saw to it that I either went to her Lutheran church or to my papou's Pentecostal mission. My mother and father (separated when I was seven or eight years old) were not at all religious. She and my father were both "secular," though he was more intellectual about it and called himself an agnostic.

After my father and mother separated, Mom applied for welfare, so she could stay home and care for us. With fairly regular help from her mother and stepfather ("Uncle Rudy"), she managed to keep food on the table and pay the rent in a relatively timely fashion. I do recall a number of occasions when our credit at the local grocer was canceled and our landlord received his rent many weeks after the due date.

At Public School 100, my neighborhood friends were also poor (some more so than I), while my friends from Brighton Beach (largely Jewish) were distinctly lower middle-class. I attended their Bar-Mitzvahs and very much enjoyed Jewish culture, New York-style—especially the food: bagels, matzos, and pickles.

At that time, Coney Island was a breeding ground for hoodlums and mobsters. It had already become infamous in the late forties for the mysterious death of a star witness against the mob. Shortly before the trial was to begin, while he was being guarded by the police, someone threw him out of an upper-story window of the Half Moon Hotel.

Friends of mine in elementary school were often sent to reform school for theft, gang fights, truancy, and stealing. Arthur Kelly reportedly became a hit man for the Brooklyn mob run by the Bonnano family. Before he reached 30, he was killed gang-

land-style. Tommy Grossman was convicted of selling drugs and stabbing someone in a Coney Island hotel. I bumped into Herbie Ross on the train one evening. He had hijacked a truckload of radios and television sets with two other guys and then decided to doublecross them. So, to hide effectively, he was riding the subway non-stop for one week. It is impossible to find somebody constantly on the move like that. Both Herbie and Tommy eventually made the headlines of the *Daily News*.

My early adolescence also involved my witnessing a terrible episode of physical and sexual abuse of younger boys by older ones. Equally pathetic was the heterosexual prostitution available. Across the street from my tenement was a men's social club, where the neighborhood enjoyed illegal off-track betting through bookies. Even Henry Hench, a handsome, local detective who was a good friend of my mother's, ignored the activity. My mother enjoyed betting. Just before my elementary school graduation, she won the "triple." With her \$400 winnings, she bought me a new suit, a stereo, and a tape recorder as presents for my graduation.

During the summers, I played baseball in the Police Athletic League system, went swimming in the Lincoln High School pool, and enjoyed the beach and amusements of Coney Island. As I got older, the subway afforded me the chance to travel anywhere in the city I wanted to go. Times Square was only an hour by train from Coney Island. I remember when I was 10 years old, Kenny Rose stole \$20 from his mother and took several of us to Times Square. We saw the movie *Eagle Squadron* starring Robert Stack. We ate pizza and ice cream until we were gluttoned. I also got used to stealing bread from the bakery and watermelons off the fruit truck that came through our neighborhood.

## From Milton Berle to Baptism

That all began to change one fateful Friday night. I showed up at my grandmother's apartment to watch the Milton Berle television show. Then in its infancy, television was a special treat for my generation. Since my mother did not own a television (forbidden if you were on welfare) and my grandmother did, once a week we walked the five blocks to my grandmother's. This particular night, a middle-aged Bible worker representing *Faith for Today* visited my grandparents. They had watched the program and signed up for the Bible course. Clearly annoyed at this disruption of my plans, I started to

leave. My grandmother then placated my brother and me by promising us that she would leave shortly and we could still watch some television.

This pattern continued for a number of Friday nights, until a young pastor named John Stevens began to visit. At that point, I took more interest in the Bible studies and started attending the city-wide Carnegie Hall evangelistic meetings being conducted by Elder Roy Allan Anderson. The moderator for each meeting was a youthful J. R. Spangler. E. L. Branson was the conference president at this time. I also began attending church with my grandparents. Dr. Frederick E. J. Harder baptized my grandparents and me in the Washington Avenue Seventh-day Adventist Church in March of 1952. Nine months later, a close friend, Ron Halvorsen, was also baptized. Together, the two "Coney Island boys" would enjoy an exciting three and one-half years as Adventist young people in Brooklyn. What we were about to discover was the way in which the Seventh-day Adventist Church would expand our horizons far beyond even those provided by the exciting city of New York.

At that time, the Greater New York Conference may have been the most culturally diverse in the North American Division. Post World War II immigrants filled pews. I attended and preached in the Danish-Norwegian, Swedish, Yugoslavian, Italian (two of them), Estonian, German, and Spanish churches. In Harlem, there was the very large, dynamic Ephesus church, which boasted numerous choirs. As small as it was (80 students), the Greater New York Academy reflected this diversity.

## 'Teenage Evangelists

**I**n the fall following my baptism, I attended Greater New York Academy. Ron entered the school second semester (January of 1953) right after his baptism in December 1952. Our Bible teacher was Kenneth Vine, who later became president of Middle East College and dean of the Division of Religion at Loma Linda University. Interestingly enough, a high percentage of our teachers at the academy either had master's degrees or were working on them at places like Columbia and New York University.

As new converts, we were "on fire" with our new-found faith. Our passion for the church and for preaching the Adventist message was intense, more so than many of the academy students raised as Adventists. Ron and I got our first taste for witness-

ing by joining some of the young married couples from the Washington Avenue congregation. They preached on street corners in downtown Brooklyn, usually around Pacific Street. On a weekly basis, people like Artie Campbell and Harry Marcellino, supported by a revered Bible worker named "Sister Ferguson," rolled out the prophecies, the Sabbath, the mark of the beast, the state of the dead, and the second coming of Christ. Since Ron and I lived in the city and were not dependent on our parents to transport us even as early teens, we went anywhere in the city public transportation could take us. Many Sabbath afternoons we handed out literature and knocked on doors.

During that time, things seemed to be exploding in New York for Adventists. *Faith for Today* was becoming a nationally recognized religious television program, its stations increasing almost daily around the country. A number of us in the academy actually acted on live television for those early programs. We knew the Fagals and the *Faith for Today* quartet personally. Even though our numbers were tiny in comparison to the millions who lived in New York City, we all felt a growing sense of pride about the Adventist Church.

Our families and friends got interested in this new religion we had embraced, so they asked Ron and me to share what we knew through Bible studies. We eventually had so many appointments during the week that it was affecting our schoolwork. We mentioned our dilemma to Elder Vine, who half-jokingly suggested that we hold public meetings in our neighborhood so we would have only one night a week to worry about. That week, we brought the subject up with my grandparents. My "Uncle Rudy" offered to pay the rental fee for a hall if we could find one.

My mother suggested we talk with the men's club directly across the street from our apartment. I did. I offered them \$5 a night rent, once a week, and they accepted (only later did I learn they would have done it for \$2, so desperate were they for cash). The hall was quite small, with a potbellied stove to heat it. When we announced that we had procured a hall, we suggested that either Elder Vine or one of the young pastors in the conference do the preaching. That idea was vetoed immediately. They told us that we were the only ones who would be able to attract people from that neighborhood to the meetings. So, with that unique excitement that comes from rising to an unexpected challenge, we practiced our sermons in front of our Bible teacher and other young pastors.

We signed an agreement with the men's club,

and, with the help of academy friends and others, we cleaned out beer cans, dust, and dirt, and set up chairs borrowed from the local churches. We advertised the meetings throughout the neighborhood. Students acted as organists, ushers, and audio-visual assistants. The first night, 62 people showed up. By the fourth week of the meetings, the conference had alerted the media. They indicated they would send out a reporter. That fourth week, we had arranged for the Faith for Today quartet to sing, and Ron was scheduled to preach. Eighty people (including a reporter from the prestigious *New York Herald Tribune*) showed up that night, more than the little hall could handle. For our Coney Island neighborhood, this was a glamorous event. A quartet that sang on television and a newspaper reporter asking them for their views of the meetings!

The following Sunday, in the religion section of the paper, the headlines read: "Teenage Gangsters Turn Evangelists." Gangsters? While this appellation possessed a modicum of truth (more for Ron than for me), it naturally struck our mothers as degrading. Fortuitously, Virginia Graham, then the most famous talk show interviewer on television with her program *Food for Thought*, read the article in the paper and arranged for us to be interviewed on her program. What started out as a simple attempt to witness to our neighborhood had become a major media event. From preaching in a Coney Island storefront, we went to preaching in Adventist churches throughout the Atlantic Union, talking with news reporters and now appearing on a major television program to tell our "story." It was a dizzying expansion of our horizons.

When we arrived at the Manhattan studio (by subway, of course), we were ushered into Ms. Graham's dressing room during her hair styling and make-up preparation. She urged us to relax, look into the camera, and speak naturally. Spread in front of her was the news article about us (last-minute "boning up," I decided). While much of the program looked into our personal lives, at the end we were invited to say a word to the "youth" who might be watching. We testified to the Adventist message about the soon-coming Jesus and the need for young people to get serious about life. On that note, the program ended. Rather than wash off the make-up we had been wearing, we wore it all the way home on the subway.

In the early spring, at the close of a church service in upstate New York where we had just told our story during the sermon, conference president E. L.

Branson and youth leader Joseph Barnes made a startling announcement. The Pan-American Youth Congress, scheduled for San Francisco in early June, planned to devote Thursday evening to youth witnessing in the North American Division. The planning committee had decided to select two examples out of the many dozens submitted. Even though the teens involved had to be at least 16 (we were only 15) someone had submitted our story for consideration. Elder Branson informed the congregation that in spite of our ages, the story of the Coney Island boys was one of the two to be featured that Thursday evening at the youth congress. The Greater New York Conference was paying our way to San Francisco. We would be interviewed in front of 10,000 Adventists from the Americas. Neither Ron nor I had ever been farther from New York City than New Jersey or Pennsylvania. Elder Kenneth Vine, his wife Betty, and her aunt drove us across the country to the congress. On the way, we saw Niagara Falls, corn and wheat fields in the Midwest, the Rocky Mountains, including Garden of the Gods, Pikes Peak, Glacier, Zion, Grand Canyon, Yosemite, and Bryce National Parks. Our pictures appeared in the special edition of the San Francisco newspapers published for the youth congress. We had tasted celebrity Adventist-style. It was delicious.

In subsequent years, Ron and I continued to preach in local churches, as well as in other conferences. I also sang in a quartet that traveled a lot. We often practiced on the subway going home, always an interesting experience for us and the passengers. Years later, while attending a family wedding, my wife, children and I were eating breakfast in a diner when a quartet broke into song. My son quipped: "Only in New York."

## Courier for Christ

Working is an integral part of an Adventist education and philosophy. While many students did not work during the school year (after all, two hours travel round-trip and a school day that ended at 3:30 p.m. did not leave much time), a number did. Some worked for teachers at the academy. However, I did work for more than a year as the person who picked up the mail for *Faith for Today* from their lower Manhattan Post Office Box 8. Even though the ministry was located in Forest Hills, Queens, it advertised a New York City mailing address. Coming from Coney Island, I passed right by that train stop in lower Manhattan. My job was to leave 40 minutes earlier than usual (5:45-6:00 a.m.), pick up the mail,

which was stuffed into large mailbags weighing 25 pounds apiece (two or three bags on Mondays, one the other days), and take them to the Forest Hills office before school started. Then I got back on the train and went to the academy for the 8:00 a.m. class. Needless to say, I was late so often I almost flunked that first-period typing class.

I took the responsibility of picking up the mail very seriously. To begin with, the names in those bags were "precious souls" whose salvation might depend on *Faith for Today* being able to enroll them in the Bible course or answer their questions. Also, the offerings to support the program were in those envelopes, most of which came in cash during that era. In my naïveté, I assumed that the cash I was carrying might be in the hundreds of dollars, so thought no more about it. One day, someone mentioned to me that more than \$10,000 had come in that Monday, most of it in cash. I felt a stiffening of the hair on the back of my neck, and my knees began to shake. This was not information I wanted anyone to have. I had already been mugged on the subway and was not interested in anyone knowing that kind of cash was in those mailbags.

Shortly after this discovery, I had a harrowing experience picking up the mail that forced a policy and procedural change. It is hard for those who do not dwell in cities to imagine the pandemonium on the subway at rush hour. People literally run to catch an open door and push with all their might to squeeze in, even when the car is too full. Carrying two bags, one in front and one behind, I ran for the train. I got there just as the door was closing and pushed my way in. However, when the rubber-edged door closed around my back wrist, I could not get the mailbag in the car. Since the door was closed, the engineer started the train. I had to hold that mailbag until the next stop as it bounced wildly in the wind just outside the car door. Obviously, dropping the mailbag was simply not an option.

Jackie Robinson steals home.



That was it. I had had it. I decided to skip class that morning and raised a ruckus at *Faith for Today*. I told them that with so much money and the responsibility of those names, sending a teenager by train to pick up the mail bordered on insanity. They needed to send a courier by car and improve their security. They agreed, and I lost my job. I began spending afternoons at *Faith for Today* painting and cleaning.

## Never Bored in the Lord

At this same time, Oliver Beltz was in New York to assist with the Carnegie Hall evangelistic meetings. He organized a city-wide choir. With the assistance of Robert McQuade, a fine young organist pursuing advanced organ studies, Beltz began to make an impact on Adventism in the city. Ron and I joined that choir, as well as the church choir McQuade conducted at the Washington Avenue congregation in Brooklyn. Almost overnight, Ron and I went from Jo Stafford, Frank Sinatra, Perry Como, Nat King Cole, and the early stages of rock 'n' roll to the classical religious repertoire, including Ralph Vaughn Williams, the *Messiah*, and Mendelssohn's *Elijah*. We performed not only in Adventist churches, but also at Grand Central Station, Times Square, and other well-known venues in the city. That was also a time when Herbert Blomstedt, later conductor of the Dresden Philharmonic and the San Francisco Symphony Orchestra, was studying at the Juilliard School of Music. The talent pool in the city, whether in graduate school or in the ministry, was immense.

Ingathering meant walking door-to-door in cold weather. A car followed, whose loudspeakers played Christmas carols sung by the King's Heralds, the Faith for Today quarter, Del Delker, and Mario Lanza. New Yorkers decorate their homes for Christmas in spectacular ways, so people are in the mood to give. We sang at Rockefeller Plaza and Times Square until our throats were hoarse. Not even apartment houses could stop us. We laid a sheet on the lawn. When people opened their windows to investigate the source of the carols, we shouted that they could throw money down to us. June Croft was the best (and shrewdest) solicitor of all. She would go to the Waldorf Astoria Hotel and stop wealthy patrons coming in and out of their limousines. Catching a crowd at the end of a Broadway show was also a big money-getter. Unhappily, we also solicited in bars (with our girls) and thought

we were doing God's work when half-drunk, leering sailors and soldiers gave \$10 bills.

All Adventist boarding schools were (and most still are) located in rural areas. It was assumed that cities corrupted and natural surroundings civilized. I readily admit that there is some validity in this assumption. However, from my own experience, let me share with you the positives of an Adventist education in the city.

First, we stayed at home with our parents and in local churches filled with the people who knew us best and who cared intensely for us. In my local church at Washington Avenue, young married couples and older "mothers in Israel" nurtured and prayed for Ron and me. We were in their homes for meals and in so many ways made to feel special. Our academy teachers were also very generous with their time.

Second, we were never bored. Bored in New York City? Bored in the Lord? While the academy was the center of our social lives on Saturday night (there was always something going on), we often did things after the social either downtown or at someone's apartment. Because we often accompanied the women to their homes on the subway, we men often ended up getting home well after midnight. On "day" dates in groups or as a couple, there were so many acceptable things to do by Adventist standards, that Ron and I never felt cheated out of fun.

Academically, we were stimulated and challenged. Besides the quality of the teachers at the academy, we would do our research papers at the New York Public Library or, like Roy Branson, write an article for the *Youth's Instructor* based on attending an open orchestra rehearsal conducted by Arturo Toscanini. During my teens I attended concerts at Carnegie Hall, and heard soprano Lily Pons sing in a theater, which broadcast her voice over radio to the nation. On Sundays, several of us would go uptown to hear Norman Vincent Peale, Ralph Sockman, or Harry Emerson Fosdick preach in their nationally famous pulpits. A city has the tacky and seamy. It also exposes young people to excellence and greatness.

There is no doubt that growing up in New York City, and spending my teen years there as an Adventist, definitively shaped my interests, convictions, and personality. To this day, when I meet an Adventist teenager from New York, there is a certain self-assurance ("street-smarts"), love for the local church, and insouciance I find engaging. Granted, some of them are outspoken, blunt, "loud," and "in-your-face." Look beyond all that, and you will find

that the city breeds intensity, passion, zest for life, loyalty, toughness, creativity, and confidence. The city and the city church still expand an Adventist young person's horizons.

Not bad.

## My Harlem Renaissance

by Henry E. Felder

The Harlem of the 1950s was an exciting place for a 12-year-old. My life—family, school, Adventist church—reverberated to the sights and sounds of Harlem's streets. The streets of Harlem were alive with the sights and sounds of a dynamic and growing part of New York City.

## The Family

I was the third of 10 children who grew up in a financially challenged household. My father worked at the Brooklyn Navy yard as a welder, while my mother worked in a clothing factory. In addition to siblings, there was an extended family that included grandparents, a favorite uncle, Nathan, aunts, and numerous cousins who lived in Harlem, or nearby in New Jersey. My maternal grandfather owned a small farm in northern New Jersey and was the patriarch of the family. Sometimes during the Christmas season, Grandfather Mitchell would come with Uncle Nathan bringing turkey, money, toys, and gifts to the small apartment where we lived. My mother had a warm and comfortable relationship with her father and brother. My father participated somewhat grudgingly in this seasonal ritual, disturbed no doubt that he was not able to afford the material things that made Christmas such an important part of a child's life.

My mother was the driving force in the lives of her children. As a teenager, she was introduced to

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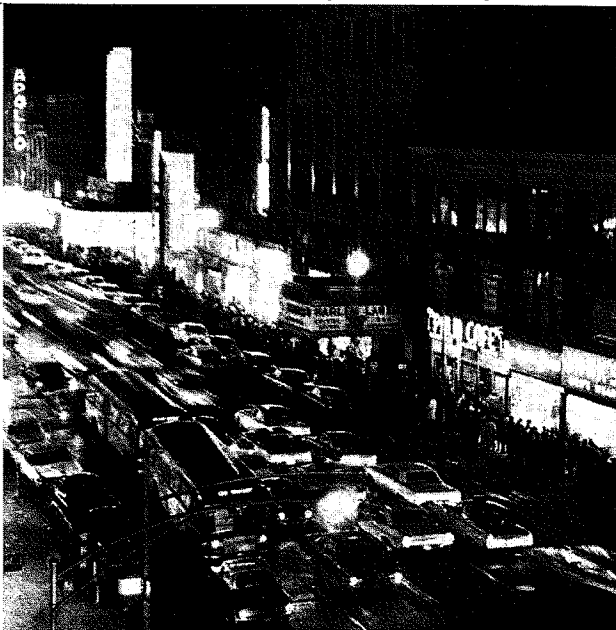
Henry E. Felder received his Ph.D. in economics from Stanford University. He is dean of the School of Business and Management at La Sierra University, and the author of *Making Ends Meet: Financial Planning for the Christian Family* (Review and Herald, 1994) and *Changing Patterns of Black Family Income* (Joint Center for Political and Economic Studies, 1984).

and joined the Seventh-day Adventist Church. Later, when she and my father married and started their family, he consented to the children being raised as Adventist.

## The School

My mother and father shared the idea that education was essential, if as black Americans, we were to escape poverty. Although neither of my parents completed high school, all of their children not only completed high school, but seven completed college and five went on to postgraduate degrees, including doctorates in medicine and economics. Through prayer, sacrifice, and the support of members of the Ephesus Seventh-day Adventist Church, most of my siblings and I started out at the Manhattan Adventist Elementary School. The school was located on 150th Street in Manhattan, on the upper floors of the City Tabernacle Adventist Church. The school was small and frequently cold in the winter. What the school lacked in amenities, it made up for in the dedication of its teachers. My fourth-grade teacher, Miss Riley, taught for more than 40 years, most of it at Manhattan Elementary. The school principal, who was also my second-grade teacher, Dorothy Young, was a disciplinarian who was unstinting in her determination that her charges would grow up to become noble citizens of this world and the next. At Manhattan Elementary, the Bible and the writings of Ellen

Harlem's main street, 125th Street, looking toward the famous Apollo Theatre.



White were as essential as the English and math textbooks. That small school instilled in me the moral and academic values that later helped propel me to college, graduate school at Stanford, and a senior appointed position in the administration of President Ronald Reagan.

## The Church

The Ephesus Seventh-day Adventist Church was another critically important institution in my 12-year old life. Ephesus was located on 123rd Street and Lenox Avenue. In 1955, Ephesus had a membership of about 1,500, which made it the largest black church in the denomination, indeed one of the larger churches in Harlem. Community events were held there, as Sunday night speakers included many delegates to the United Nations. The Sabbath morning service was formal, predictable, and in the best tradition of a nearly Methodist liturgy. The church seated more than 1,000 people, in a rectangular shape with a balcony on three sides, and a set of beautiful angels over the rostrum.

The church elders seemed always dressed in black or a subdued blue. These were men whose lives as black Americans were frequently drab and depressing as doormen, elevator operators, and janitors. On Sabbath morning they came alive. Sabbath work was white-collar work. Here at church, they were allowed to be in charge, to preside, to intone the Malachi injunction, "... Freely you have received, freely give, ... For the Lord loveth a cheerful giver." These men were constants in my life.

The elders could always be counted on to be at church Sabbath morning, to make the service memorable, even if sometimes painfully long. The deacons patrolled the church, maintaining law and order. The young were banished to their parents, or to an assigned seating section in the balcony where we could be collectively watched. During the church service, the deacons could cut your conversations short with just a look!

At Ephesus, church was an all-day affair. Sabbath school moved into the morning service, followed by lunch in the church basement, and then three or four afternoon meetings that took in all age groups. Sabbath school, for me, was notable because of John Matthews, who would spend some of the time having each of us read the Bible until we made a mistake of any kind. Then he would interpret what we had read in the context of the Sabbath school lessons. The morning worship service started at



11:15 a.m. and could be counted on to last until 1:30 p.m. or later.

Some families began Sabbath afternoon fellowship with the lunches they had brought. By mid-afternoon, the programs began. One program was for the older members, then junior and senior Missionary Volunteer meetings. Even though, at age 12, I was expected to participate in the JMV, the MV programs were too compelling. The day was concluded with games at night. There was a social at least once a month that featured a special type of Adventist dancing—the march!

On the street where we lived, there were about 50 families, with well over 100 children. Few on that street went on to college—many of its youth never made it past adolescence. How was it possible that my family was able to send so many of its children to college, with seven completing? The major variables were the church and my mother's determination to send her children to church school. The Ephesus church was the embodiment of all that the Adventist church stood for. Its sermons and ceremonies were reinforcing and nurturing, and its theology was certain. Few controversies intruded on the preparation of its youth to take their places in society. If anything could overcome the disadvantages of growing up in Harlem, it was growing up in the Ephesus Seventh-day Adventist Church.

## The Neighborhood

I enjoyed the usual relationship with my siblings that one could expect with two adults and nine children [at that time] in a three-bedroom apartment. Space was at a premium, and in order to gain some of my own, I often took to the streets. This meant taking the subway wherever I wanted to go, but mostly I walked around Harlem.

Harlem is a six-square-mile enclave in the upper end of Manhattan Island. Manhattan, the smallest of the five boroughs making up New York City, runs approximately 13 miles from north to south and two miles from east to west. Manhattan is surrounded by the Harlem River to the northeast and north, the East River to the east, the Hudson River to the west, and New York Bay to the south. Manhattan is the site of virtually all of the skyscrapers that are the symbol of New York City, and is the business and financial heart of the United States. It is what most of the world thinks of when New York City is invoked. In 1955, Manhattan had a population of nearly two million people. While the exact population of

Harlem was not known, it was estimated at nearly 300,000 people. In 1955, it was the largest community of African-Americans in the United States.

Harlem stretches loosely from 103rd Street in the south at the start of Central Park to 155th Street in the north, and from the East River to the Hudson River. Within its boundaries are famous institutions, such as Columbia University, New York City College, Grant's Tomb, and the Cathedral of Saint John the Divine. Harlem was still enjoying the results of the "Renaissance" that elevated the arts and black American society to one of its highest pre-World War II cultural levels.

Bisecting Harlem is 125th Street, a commercial strip that ran in an east-west direction. Each of the approximately 15 avenues that run north and south and crossed 125th Street had its own character. Seventh Avenue was home to the beauty parlors, nightclubs, and brownstones that provided one of the many middle-class enclaves to the community. During its trek through Harlem, one of the most famous addresses in the rest of Manhattan, Fifth Avenue, was home to many middle-class enclaves.

## The Heritage

Harlem did not start out as a slum or as a ghetto. In its early days, around the turn of the century, it was a suburb for whites. In 1904, several black families moved into Harlem, seeking an escape from decaying conditions in lower Manhattan. In 1910, various black realtors and a church group bought up large blocks along 135th Street and Fifth Avenue. These purchases precipitated "white flight" in neighborhoods above 125th, and led to speculative increases in real estate prices. In the years that followed, large numbers of blacks joined a mass movement of African-Americans who fled from the oppression of the Southern states and settled in the major Northern cities. Many ended their sojourn in Harlem.

In New York City, a confluence of events led to the start of the Harlem Renaissance in 1925. At the center were black intellectuals, such as the W.E.B. Du Bois and Alain Locke, with doctorates from Harvard, and poets and writers such as Contee Cullen, Langston Hughes, Jessie Fauset, Zora Hurston, James Weldon Johnson, Jean Toomer, and Arna Bontemps, who would later teach at Oakwood College. They were joined by wealthy black patrons, such as Madame Walker, who founded a hair

treatment company and was at one time one of the wealthiest women in America. Graceful brownstone houses lined 136th Street—its owners, patrons of the arts. African-American life was highlighted in poetry, literary societies, and all of the arts. For example, Paul Green's play of southern Negro life, *In Abraham's Bosom*, won a Pulitzer Prize in 1927. Harlem became the intellectual center of African-American life and looked disdainfully down on such pretenders as Washington, D.C. and Atlanta.

At its height, however, the Renaissance touched only a tiny fraction of the black community in Harlem. Du Bois has spoken of the "talented tenth," but the percent who actually participated was far less. Even as the Harlem Renaissance flourished, the seeds of the shift of Harlem, from enclave to ghetto to slum, were very much present. The Great Depression took its toll on Harlem, as it did in all other parts of the country. By the mid-1930s, almost 50 percent of its adult population was unemployed. Harlem was served by a single public medical facility, with only 273 beds. The social and health indicators, which were never good, became even more devastating for African-Americans.

Finally, on March 19, 1935, in retaliation for the mistreatment of a black youth at the hands of white store clerks, thousands of angry Harlem residents swept down Lenox Avenue, destroying white-owned commercial property. Hundreds were arrested, several blacks were killed, and the Harlem Renaissance was over. By 1955, the slow descent into an urban nightmare was well on its way. While there remained many areas of superb housing and a vibrancy and intellectualism that continues to this day, Harlem was only a shadow of its prior glories.

## The Street—125th

Christmas was a special time for exploring Harlem. My Christmas walks began at my house on 128th Street, between Second and Third Avenues. From there I proceeded to 125th Street, and then west toward Eighth Avenue. The first stop was at the office of the Salvation Army, which made sure that any child who wanted one would receive a toy during the Christmas season. (To this day, I try always to drop a dollar in the bell ringers during the season). Then, on to Park Avenue for the best 15-cent hot dogs in New York, at the New York Central train station. Christmas lights decorated 125th Street starting at Madison Avenue and continuing on to Eighth Avenue. The stores were festive and crowded.

It was during this time that Blumstein's Department store, Harlem's largest and made notable by a giant Santa Claus that towered over 125th Street like an overseer, started hiring black clerks.

My journey took me past the storefronts that started at Fifth Avenue and continued unbroken to Amsterdam Avenue. At Lenox Avenue it was two short blocks to the Ephesus church. But on these trips it was the city that I wanted to see. I peeped into the lobby of the Theresa Hotel when I reached Seventh Avenue. At one time, the Theresa Hotel did not admit blacks, and, in a twist of irony, was made famous in 1960 when Fidel Castro stayed there. Other hotels did not want a Communist in their midst. Seventh Avenue and 125th Street was also the corner on which Muslims under Elijah Muhammed and his most famous disciple, Malcolm X, would rail against racism and white devils. Father Divine had a famous temple on Eighth Avenue. During the depression, Father Divine was one of the few able to feed large groups of hungry Harlem residents. For these acts, he was rewarded by the faithful with adoration bordering on fanaticism. He had grown rich and extravagant, but remained a hero to the locals.

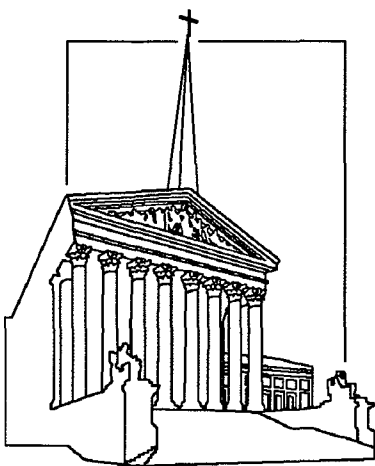
There were many things that made Harlem especially joyous to a 12-year-old. Long before drugs, decay, and death became hallmarks of Harlem, it was an exciting part of New York City. In the 1950s, there was a sense of accomplishment and the energy from a solid middle class in the heart of New York. On December 1, 1955, Rosa Parks of Montgomery, Alabama, decided that she did not want to move to the back of the bus. Her defiance spawned the start of the last phase of the civil rights movement that, ironically, may have been part of the reason for Harlem's decline. With the civil rights movement, blacks gained access to the suburbs and moved away from the city. Harlem lost many of its middle class and possibly its soul.

After 1955, Harlem continued a slow decline that would only stop when massive funds were used to revive 125th Street. By that time, it was too late. The Harlem of the Renaissance period and of my youth was no more. But, during those shining days in the mid-50s Harlem was a pretty neat place for a 12-year old boy.

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# Adventists and America's Courts

The Adventist Church has helped to make U.S. constitutional history. In turn, the courts have influenced Adventist history.

by Ronald L. Lawson

SECTS, ACCORDING TO STARK AND BAINBRIDGE, are marked by a high "state of tension" with their "surrounding sociocultural environments."<sup>1</sup> Tension is characterized by difference, separation, and antagonism, for a sect and its surrounding society "disagree over proper beliefs, norms, and behavior."<sup>2</sup>

It is not surprising that differences, tensions, and antagonisms have often resulted in conflicts that have been fought out in courts. The first case to argue the Free Exercise of Religion Clause of the U.S. Constitution before the Supreme Court (*Reynolds v. United States*, 1879) upheld the ban on polygamy among Mormons.<sup>3</sup> Jehovah's Witnesses have also been the focus of major cases before the U.S. Supreme Court. The *Minersville School District v. Gobitis* decision (1940) found that American schools had the right to compel children to salute the national flag during daily

assembly. In the wake of this decision, violence and intimidation against Witnesses increased dramatically, fanned by wartime patriotic fervor. However, in the midst of World War II, in *Bamette v. West Virginia State Board of Education* (1943), the Supreme Court courageously reversed its earlier decision.<sup>4</sup>

Seventh-day Adventist beliefs have also fostered norms and behavior that have resulted in tension and conflict with American society and have often been fought in court. The most frequent source of dispute has been the Adventist belief that Saturday is the Sabbath. Insistence by Adventists on refraining from work from sundown Friday to sundown Saturday and, earlier, that they should be free to work on Sunday, have resulted in arrests, loss of jobs, and ultimately court cases. Other Adventist practices that have resulted in court battles included their refusal to bear arms in wartime or to join and contribute to labor unions, and also their wish to solicit door-to-door and sell religious publications. In recent decades the Adventist Church, its medical, educational, and publishing institu-

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tions, and its members as such have also become increasingly involved in court suits. Two of these cases, in particular, have been cited frequently in subsequent court opinions.

## Influencing and Influenced by the Courts

Seventh-day Adventists have been involved in a number of landmark court cases bearing on both the Free Exercise and Establishment clauses of the First Amendment of the U.S. Constitution and on statutory law. The main issues have included security of employment for Sabbath observers, the right of persons dismissed from their jobs for reasons of conscience to unemployment compensation, the right of those with conscientious objections to bear arms in the military to become citizens, and the freedom to choose not to join a labor union.

Some of its cases created key judicial precedents in the area of religious liberty. One case that reached the U.S. Supreme Court (*Sherbert v. Verner* 1963) became a pivotal case in the application of the religion clauses of the Constitution. Indeed, the Adventist Church, its medical, educational, and publishing institutions, and its members as such have become increasingly involved in court suits in recent decades.

While cases focusing on Mormons and Witnesses have received considerable attention from scholars, this has not been so with those focusing on Adventists. By tracking changing issues, outcomes, and the growing ease of Adventists with the courts over time, it

is possible to trace the decreasing tension of the Seventh-day Adventist Church with its surrounding sociocultural environment.

## Cases Related to the Military and Unions

Adventism's involvement in the U.S. court system began in earnest during World War II. Although Adventists conscripted into the military during World War I had faced punishment for refusing to do basic training on their Sabbath, the new close relationship between the Adventist Church and military

authorities during World War II usually ensured that problems were avoided or solved amicably. The fact that American Adventist conscripts refused to bear arms did not, then, result in court cases.

A group of cases focused on aliens whose applications for citizenship were opposed by the Immigration Service because they refused

to state unequivocally that they were willing to bear arms. One such application, by a non-combatant Adventist soldier, was upheld in court. The court's opinion appealed to the Selective Service and Naturalization Acts, which had created a noncombat service classification and provided for the naturalization of persons performing military duties. The statutory oath of allegiance no longer implied a willingness to bear arms.<sup>5</sup> However, when a noncombatant pastor's wife declared that she would be willing to participate in any kind of war work except to use a weapon, she was denied citizenship.<sup>6</sup> Finally, in the first case involving an Adventist to reach the Supreme Court, the

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*Cases involving Adventists have created key judicial precedents in the area of religious liberty. Sherbert propounded the first clear theory of the Free Exercise Clause of the Constitution and became an important precedent, cited in all relevant Free Exercise cases.*

Court held that Congress had not intended to make a promise to bear arms a prerequisite to naturalization. The Supreme Court said that it was an error to deny citizenship to applicants who were ready to defend the constitution, but because of religious scruples, declared that they would not take up arms to defend the U.S.<sup>7</sup>

In the 1970s, the Adventist Religious Liberty Department became involved in a series of cases endeavoring to help Adventists having job problems because of their refusal to join unions and at the same time make favorable case law. These cases were usually brought under Title VII of the Civil Rights Act of 1964 as amended in 1972 in Section 701(j). It argued that the law obliged both employers and unions to make good-faith efforts to honor the exemptions requested by employees with a conscientious objection to union membership unless this would result in undue hardship.<sup>8</sup> Once it was amended, section 19 of the NLRA was also utilized.

These cases were conclusively settled in *Nottelson v. Smith* (1981), *Tooley v. Martin-Marietta Corp.* (1981), and *International Association of Machinists and Aerospace Workers v. Boeing* (1987), which found that the accommodations requested were reasonable and did not impose undue hardship, and thereafter protected all with religious scruples against union membership.<sup>9</sup>

Although the courts were shown that the Seventh-day Adventist Church "teaches that it is morally wrong to be a member of or pay dues to a labor organization,"<sup>10</sup> this was never a test of fellowship. In fact, for the past several decades, Adventists have been union members. Those who have taken the anti-union position seriously have tended to be more conservative members who continue to try to abide by the writings of Ellen White; they are predominantly Caucasian.<sup>11</sup> Most such Adventists tend to vote Republican and to have occupations that do not make them eligible for

union membership. On the other hand, union membership is much more frequent among members of minority racial groups, who are much more likely to be employees and to vote Democrat.<sup>12</sup> Coverage of the teaching on union membership in Adventist publications has declined sharply in the last 15 years, with the result that today many members are not aware of it.

## Cases Flowing From Sabbath Observance

Two Supreme Court cases, one in the 1960s, the other in the 1980s, used the Free Exercise Clause to address the issue of an employee who was fired for refusing to work on her Sabbath being declared ineligible for unemployment benefits. The first of these was an appeal by Adell Sherbert, who had worked a five-day week in a textile mill in South Carolina until 1959, when the work week had been changed to include Saturday for all three shifts. Her refusal to work on that day had resulted in her dismissal. When her conscientious scruples prevented her from taking new employment that would require her to violate her Sabbath, Sherbert applied for unemployment benefits. She was denied them on the ground that she had failed to accept suitable work offered to her—a decision that was affirmed by both her county court and the South Carolina Supreme Court.

However, the U.S. Supreme Court reversed this decision, finding that Sherbert's disqualification from benefits on these grounds "imposed a burden on the free exercise of her religion."<sup>13</sup> Justice Brennan's opinion drew attention to the fact that South Carolina law expressly shielded a Sunday worshiper from having to make the kind of choice imposed on Sherbert: "When in times of 'national emergency' the textile plants are authorized. . . to operate on Sunday, 'no employee shall be

required to work on Sunday . . . who is conscientiously opposed to Sunday work; and if any employee should refuse to work on Sunday on account of conscientious . . . objections he or she shall not jeopardize his or her seniority . . . or be discriminated against in any manner."<sup>14</sup>

*Sherbert* was the first case in which the Court upheld a free-exercise claim that was not also supported by free-speech concerns. As such, it [propounded the first clear theory of the Free Exercise Clause of the Constitution]. Building on the earlier Jehovah's Witness cases, *Gobitis* and *Barnette*, the court's opinion applied the doctrine of "strict scrutiny"—the level of court concern, requiring that the state demonstrate a compelling interest if a decision running counter to a religious belief is to withstand challenge—and spelled it out. *Sherbert* consequently [became an important precedent, cited in all relevant Free Exercise cases].

A similar case with a different wrinkle was decided by the Supreme Court in 1987. After working in a Florida jewelry store for more than two years, Paula Hobbie had informed her employer that she was joining the Seventh-day Adventist Church and could no longer work scheduled shifts on Friday nights

and Saturdays. When she was dismissed, she filed for unemployment compensation. Her request was denied on the basis of "misconduct" connected with her work. This ruling was affirmed by the Unemployment Appeals Commission and the Florida Fifth District Court of Appeals.

However, the Supreme Court, in another Brennan opinion, reversed this decision and confirmed *Sherbert*. "When a State denies receipt of a benefit because of conduct mandated by religious belief, thereby putting substantial pressure on an adherent to modify his behavior and violate his beliefs, that denial must be subjected to strict scrutiny and can be justified only by proof of compelling state interest."<sup>15</sup> This case extended the application of *Sherbert* to a situation where conflict between employee and employer was caused by the former changing religious beliefs rather than the latter altering work rules.

Hobbie's case was prepared and argued by the staff of the Legal Department of the General Conference of Seventh-day Adventists; indeed, it was "the first church-backed case argued in the United States Supreme

## Adventists in U.S. Courts—1891–1997

In *Re Adventist Living Centers*, 52 F. 3d 159 (7th Cir. 1995)

*Beadle v. Tampa*, 42 F. 3d 663 (11th Cir. 1995)

*Cooper v. Oak Rubber Company*, 15 F. 3d 1166 (6th Cir. 1994)

*Cowan v. Gilliss*, 81 F. 3d 160 (6th Cir. 1996)

*Dawson v. Mizell*, 325 F. Supp. 511 (USDC, ED, VA, 1971)

*Equal Employment Opportunity Commission and Silver v. Pacific Press Publishing Association*, 535 F. 2d 1182 (9th Cir. 1976)

*Equal Employment Opportunity Commission v. Pacific Press*, 676 F.

2d 1272 (9th Cir. 1982)

*Espinoza v. Rusk*, 634 F. 2d 477 (both Cir. 1980)

*Genas v. State of New York*, 75 F. 3d 825 (2d Cir. 1996)

*General Conference Corporation of Seventh-day Adventist v. Seventh-day Adventist Congregational Church*, 887 F. 2d 228 (9th Cir. 1989)

*General Conference Corporation of Seventh-day Adventist v. Seventh-day Adventist Kinship, International, Inc.* (USDC, CD CA, 1991. Case No. CV 87-8113 MRP, unentered)

*Giroud v. United States*, 328 U.S.

61 (1946).

*Hinsdale Hospital Corporation v. Shalala*, 50 F.3d 1395 (7th Cir. 1995)

*Hobbie v. Unemployment Appeals Commission*, 480 U.S. 136 1987

*International Association of Machinists and Aerospace Workers v. Boeing*, 833 F. 2d 165 (9th Cir. 1987)

*Jackson v. Veri Fresh Poultry, Inc.*, 304 F. Supp. 1276 (District Court, E.D. Louisiana 1969)

In *Re King*, 46 F. 905; *Circuit Court*, W.D. Tennessee (1891)

In *Re Kinloch*, 53 F. Supp. 521 (District Court, W.D. Washington 1944)

Court by a church-employed attorney."<sup>16</sup> Supporting *amici curiae* briefs were filed by an astonishingly diverse list of religious groups—including the American Jewish Congress, the Baptist Joint Committee on Public Affairs, and the Catholic League of Religious and Civil Rights. All these groups feared that *Sherbert* might be reversed, for they saw its broad interpretation of the Free Exercise Clause as in their best interest.

The *Sherbert* and *Hobbie* decisions represented a considerable advance for Adventists in protecting their right to unemployment benefits should they be fired for refusing to work on their Sabbath. However, protection of their jobs was a more important goal. The passage of equal employment legislation eventually allowed Adventists to address some of the ramifications of this problem in the courts. Title VII of the Civil Rights Act of 1964 raised the possibility that this dream would become a reality. It prohibited an employer from discriminating against an employee on the basis of "race, color, religion, sex, or national origin."

However, how this was to be applied to cases where a sabbatarian refused to work on

Saturday was unclear, with the result that the cases invoking it produced contradictory results.<sup>17</sup> Some cases brought by Adventists used different grounds, but without success.<sup>18</sup> An amendment, Section 701(j), which was added to the Act in 1972 at the instigation of Senator Jennings Randolph, who was himself a sabbatarian (a Seventh Day Baptist), sought to strengthen the position of sabbatarians by requiring that an employer try to accommodate an employee's religious scruples unless doing so would be an "undue hardship."<sup>19</sup>

Nevertheless, the first cases that sought to define the meaning of the amendment again gave contrary opinions and sometimes evenly divided courts. One court opinion noted: "We recognize that the problems arising from the fact that Seventh Day [sic] Adventists are forbidden to work on Saturdays are troublesome ones and that the courts have not been in accord in their thinking on the subject."<sup>20</sup> The key case, ultimately, proved to be *Trans World Airlines v. Hardison* (1977), which involved not an Adventist but a member of the Worldwide Church of God. *Hardison* acknowledged that an employer must accommodate an employee's religious beliefs and

*Lake v. Goodrich*, 837 F. 2d 449 (1st Cir. 1988)

*Lewis v. Seventh-day Adventist Lake Region Conference*, 978 F. 2d 940 (6th Cir. 1992)

*Loma Linda Food Company v. Thomson & Taylor Spice Co.*, 279 F. 2d 522 (U.S. Ct of Customs & Patent Appeals 1960)

*In Re Losey*, 39 F. Supp. 37 (District Court, E.D. Washington 1941)

*Marshall v. Pacific Union Conference*, 21 F.E.P. 846 (District Court, C.D. California 1977), cert. denied, 434 U.S. 1305 (1977)

*Martin v. Pacific Northwest Bell Telephone Company*, 441 F. 2d 1116 (9th Cir. 1971)

*New York City Transit Authority*

*v. State of New York*, 651 N.Y.S. 375 (Court of Appeals of New York 1996)

*Nottelson v. Smith*, 643 F. 2d 445 (7th Cir. 1981)

*Opoku-Boateng v. California*, 95 F. 3d 1461 (9th Cir. 1996)

*Pierce v. Iowa-Missouri Conference*, 534 NW 2d 425, cert. denied, 517 U.S. 1220 (1996)

*Rayburn v. General Conference of Seventh-day Adventists*, 772 F. 2d 1164 (4th Cir. 1985)

*Rayes v. Eggers*, 36 F.3d 1100 (8th Cir. 1994)

*Riley v. Bendix*, 330 F. Supp. 583 (District Court, M.D. Florida 1971)

*Russell V. Butte Silver-Bow, Montana Human Rights Commission*,

unreported (1997).

*Seventh-day Adventist Congregation Church v. GC Corporation of Seventh-day Adventists*, 887 F.2d 228, cert. denied, 493 U.S. 1079 (1990)

*Sherbert v. Verner*, 398 U.S. 1963  
*Stocker and Perry v. General Conference Corporation of Seventh-day Adventists*, 95 F. 3d 1168 (Fed. Cir. 1996)

*Tate v. Akers*, 565 F. 2d 1166 (both Cir. 1977)

*Tooley v. Martin-Marietta*, 648 F. 2d 1239 (9th Cir. 1981)

*United States v. City of Albuquerque*, 545 F. 2d 110 (10th Cir. 1976)

*United States v. Schwimmer*, 279 U.S. 644 (1929)

practices unless they cause undue hardship. However, it also determined that anything beyond *de minimis* cost would be undue hardship. This definition was so narrow that it provided a poor foundation on which to build cohesive case law. As a result, each succeeding case largely turned on its particular facts and circumstances.

The *Hardison* decision also found that employers are not obliged to violate the seniority provisions of collective bargaining agreements to protect the religious scruples of employees. Because seniority provisions often allowed workers with seniority to choose the shifts that gave them weekends off, this meant that new Adventist employees could not be accommodated.

A General Conference lawyer described *Hardison* to me as a “huge loss”<sup>21</sup>—and, indeed, this has proved to be so. A review of the first 30 reported cases after *Hardison* found that it had become more difficult to win cases focusing on the weekly Sabbath, as compared with those dealing with less-frequent religious holidays, because the frequency and recurring nature of the conflict made it more likely that the courts would declare this a hardship.<sup>22</sup> Since that time, the stronger cases have tended to be settled out of court, so that they have made no contribution to case law. Most of the cases that have gone to court have been lost on the basis of undue hardship.<sup>23</sup>

Following the *Hardison* case in 1977, court victories have been few and less decisive.<sup>24</sup> It proved to be especially difficult for sabbatarians to prevail when a collective bargaining agreement between an employer and a union representing the employees was in place. An Adventist employee was likely to find that he or she faced “almost insurmountable difficulties” because the intransigence of the union guarding cherished seniority provisions. The Adventist position on this issue, which is so

important to them, has been sorely weakened by the antagonism generated among labor unions by the earlier attempts to excuse church members from union membership. The effect of the *Hardison* decision on the employer removed any flexibility from the situation.<sup>25</sup>

Three victories in 1996 gave some of the sabbatarian lawyers hope that the tide might finally be turning. In one of these, the U.S. Court of Appeals for the Ninth Circuit found that the employer—the State of California—had failed to establish undue hardship.<sup>26</sup> Two other Adventists won cases that year in state courts as diverse as Montana and New York.<sup>27</sup>

However, that same year, 1996, a case in the Second Circuit of the U.S. Court of Appeals brought by Kingsley Genas, an Adventist employee of the State of New York Department of Correctional Services, against the department and several of its officers, underlined the extent to which the Supreme Court’s decision in *Employment Division v. Smith* (1990) had muddied the waters. In *Smith*, the Supreme Court had rejected, for at least some Free Exercise challenges, the compelling state interest standard, as established in *Sherbert* (1963). It had held that the Free Exercise clause is not offended by a generally applicable law that burdens religious practice if the burden on religion is not the object of the law, but merely the “incidental effect” of an otherwise valid provision. The Second Circuit case was complicated because it invoked both the Free Exercise Clause and case law rooted in Title VII: Genas had claimed that the department and officers had breached the Free Exercise Clause by refusing to accommodate his need to observe his Sabbath. When the defendants’ motion for summary judgment was denied, they appealed the decision.

The Court found, in its preliminary decision, that since a collective bargaining agreement had been in place, whose purpose had not been to burden religion but to establish a neutral and fair method of awarding shifts (in



this case, via seniority), the officers could reasonably believe that their actions were in accord with *Smith*: "[t]hrough the duty to reasonably accommodate the religious preferences of employees has been clearly established, it has not been established that an employer acting under the terms of a collective bargaining agreement must do more to accommodate religious preferences than is required by the agreement."<sup>28</sup> That is, on the basis of the *Smith* decision, the court threw out the constitutional argument based on the Free Exercise Clause, and restricted the litigation to statutory law, Title VII.<sup>29</sup>

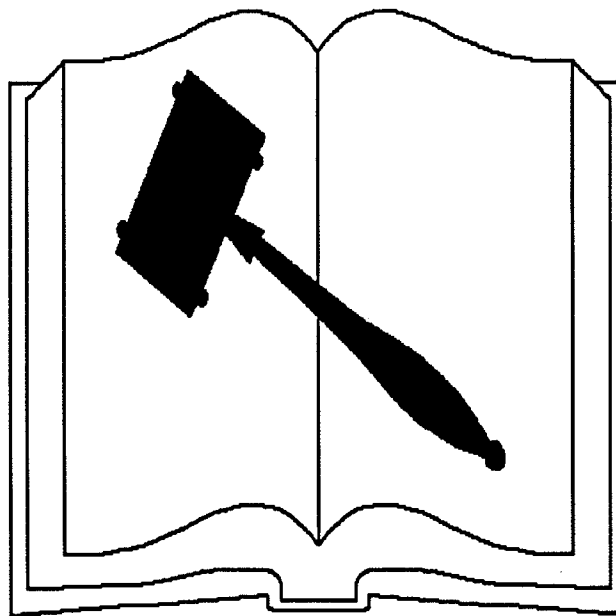
*Smith* dismantled the protections for Sabbatarians put in place by *Sherbert* in cases where the action being challenged could be seen as generally applicable and neutral in scope. However, *Sherbert* still held where this was not the case. Congress set out to undo what was widely seen as the harm done by *Smith*, by passing the Religious Freedom Restoration Act of 1993. With this act, Congress explicitly re-established a compelling state interest test, similar to that which had been created by *Sherbert*. However, when its constitutionality was tested, the Supreme Court voided the law.<sup>30</sup>

The *Smith* decision by the Supreme Court, and the attempt by Congress to find a legislative remedy in the Religious Freedom Restoration Act, demonstrate that in recent years Congress, more than the courts, has become more protective of religious freedom and of the interests of churches. This raises the question of why the Adventist Church does not channel more of its resources into lobbying and encourage members to become involved in politics. It may be that it feels that the likelihood of it gaining influence in this sphere is severely limited by its relatively small numbers. However, the impact of Senator Jennings Randolph, who came from the much smaller Seventh Day Baptist community, illustrates what is possible.

## Other Free Exercise Cases

Adventists fought cases focused on the Free Exercise Clause when local authorities attempted to restrict their door-to-door activities. In 1976, Adventists sought injunctive relief when their "literature evangelism" ran into problems in Laramie, Wyoming, because their colporteurs received a commission on sales. Relief was granted because the colporteurs were credentialed ministers and their activities were judged to be essentially religious.<sup>31</sup> In 1980, Adventists also fought a case in Albuquerque, where the city had judged their solicitation, or "Ingathering," to be secular, and thus requiring a permit. The city pointed out that the funds raised helped to support such church activities as medical, community, and educational services. The church, insisting that these activities were part of its religious mission, asked the court to declare the ordinance unconstitutional. The court agreed.<sup>32</sup>

A few cases have focused on the right of an Adventist to observe the standards of his church while in prison. For example, *Rayes v. Eggers* (1994) focused on the demand of the



prisoners for an Adventist-sanctioned diet. Brought without legal assistance from the church, and poorly documented, it was lost. The problems of Adventist prisoners were described to me as the kind of issue that the Adventist Church is not eager to pursue.<sup>33</sup> This is not because no Adventists are sentenced to prison or that jailhouse conversions to Adventism are rare. Quite the contrary: Although many problems are solved through negotiations, there are a number of potential cases dealing with such issues as dietary problems, Sabbath observance problems, and difficulties with access to worship in prison. However, church leaders are reluctant to pursue them. In part, this seems to be because of a socially conservative law-and-order mentality among Adventist leaders: They comment that one should expect to lose rights when one goes to prison. In part, it is because church leaders often view the plaintiffs as unattractive figures: They are afraid that supporting these members would prove a public relations liability.<sup>34</sup>

## Commercial Suits by and Against Adventist Institutions

As Adventist institutions, hospitals, universities and colleges, publishing houses, health food factories, nursing homes, and retirement centers have become less separated from society, they have inevitably become involved in such secular matters as commercial lawsuits. I list three random examples: a suit against an Adventist food company over a breach of trademark law concerning the name of a product (*Loma Linda Food Company v. Thomson & Taylor Spice Co.* 1960); a suit by Hinsdale Hospital against the Federal Department of Health and Human Services over Medicare reimbursement (*Hospital Corporation v. Shalala* 1995); and a suit by a food seller against a nursing home for food deliv-

ered shortly before it filed for bankruptcy protection (*Reinhart Institution Foods Inc. v. Adventist Living Centers* 1995).

## Personal Suits Against the Adventist Church and Its Institutions

The growth of Adventist institutions, and the closer involvement with society that inevitably followed, also exposed Adventism to government regulation and to legal suits from government agencies designed to bring institutions into conformity with the law when church leaders resisted. These suits were usually brought at the behest of church members. The most important of these are a series of suits brought in the 1970s against the Pacific Press Publishing Association of Mountain View, California. In 1972, Merikay Silver, an editor at Pacific Press, approached the general manager asking that her salary be raised to a level commensurate with her male colleagues. He not only refused her request, but added that no woman there was receiving equal pay; as long as he headed the publishing house none ever would.<sup>35</sup> When informal efforts failed to resolve the dispute, Silver filed a class action suit under Title VII of the Civil Rights Act of 1964<sup>36</sup>—the same antidiscrimination law invoked by Adventists in their efforts to retain their jobs in Sabbath employment cases. With Lorna Tobler, a co-worker, Silver also filed with the EEOC complaints for sex discrimination and retaliation.<sup>37</sup>

Silver's original request to the Pacific Press had invoked the vote of the Annual Council of the General Conference the previous year, 1971, to change the wage scale for North America to allow women to receive a "head of family" allowance if they were in fact acting as such.<sup>38</sup> Adventist leaders had originally reacted strongly against the new labor laws,

seeing them as instances of the government telling the church what to do. The church sought a different solution to their need to be regarded as in compliance with the Federal regulations. However, the negotiating team, which was headed by Neal Wilson, then president of the church in North America, was eventually persuaded to comply in this manner in order to save the church from being seen as in opposition to the government.<sup>39</sup> When Pacific Press rejected Silver's request, it was therefore in violation of the Adventist Church's new policy. Although, as a separate corporation, it was legally free to do this, such independence by an Adventist institution was highly unusual.

Wilson claims that he tried to use the moral authority of the church leadership to encourage Pacific Press to comply with the church's new policy.<sup>40</sup> However, this was without avail. Shortly afterward, he and other church leaders became heavily involved in the press's defense. The defense was based principally on the Free Exercise Clause of the First Amendment. The Adventist Church's dogged persistence in this flowed from beliefs that its institutions, as religious organizations, were immune to antidiscrimination laws, and from a fear of state interference that was rooted in its apocalyptic expectations of persecution at the hands of the American government.

Indeed, church leaders became so determined to win the case that at the quinquennial General Conference Session (the only occasion at which changes in doctrine or the *Church Manual* can be voted) in Vienna in 1975 they pushed through two changes in the

manual that were designed to strengthen the hand of the press in this case. First, the General Conference in session modified the rule that only local churches can disfellowship members by creating a loose disciplinary relationship among congregations in which a church employee holds membership and the employing organization. Henceforth the congregation and the denominational employer would inform each other about any action against the member-employee. Second, the session added to the reasons for church discipline: "Instigating or continuing legal action against the church or any of its organizations or institutions, contrary to Biblical and Ellen G. White counsel."<sup>41</sup>

Since all employees of the Pacific Press had to be Seventh-day Adventist Church members in regular standing, these changes, especially the second one, could have made it easier for church authorities to secure the

dismissal of Silver and Tobler. The president of the press, who was senior elder of the local Adventist church, invoked the first change in moving—unsuccessfully—to have his congregation disfellowship Tobler.<sup>42</sup> However, after news of the second change became known, it ran into such strong opposition from Adventist lawyers in America that it was excluded when the manual was reprinted.<sup>43</sup>

The court brief from Pacific Press did claim that lawsuits against the church by members were doctrinally prohibited—a statement whose historical support was exaggerated.<sup>44</sup> Moreover, the press used the contravention of this "doctrine" by Silver and Tobler as the ground for dismissing them. This action subsequently became the center of the EEOC

*The Fifth Circuit Court's opinion regarding the Pacific Press broadened the Title VII Civil Rights provisions to millions of employees of religious institutions. The court's opinion has been frequently cited in other Free Exercise and Establishment of religion cases.*

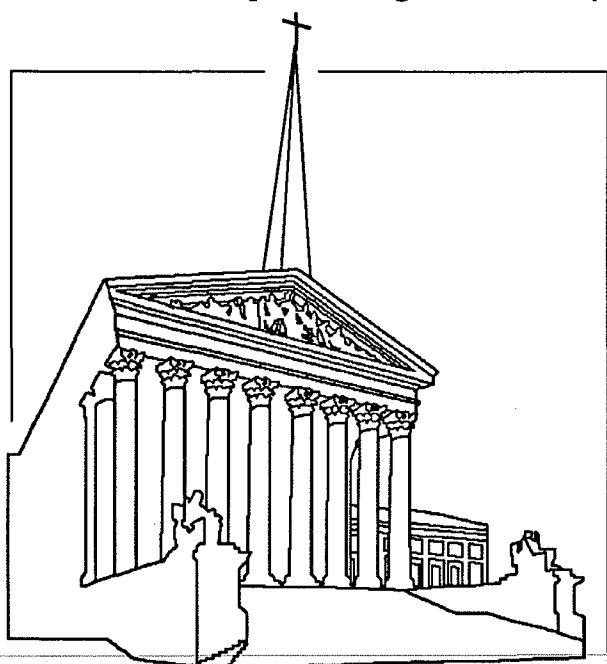
charge that the press had retaliated against them because they had filed an antidiscrimination suit based on Title VII.<sup>45</sup>

Ultimately the total number of suits flowing from this dispute grew to five, two of which were taken to the Ninth Circuit Court of Appeals. Silver, worn down by long delays and the emotional tension of the cases, eventually settled her suit out of court. The key case became that filed by the EEOC on behalf of Tobler (1982). It charged sex discrimination and retaliation in violation of Title VII. When the district court found for Tobler, the press appealed the case to the court of appeals. However the latter upheld the lower court's decision. Its opinion found that Congress had intended to prohibit religious organizations from discriminating among their employees; that Tobler fell under the provisions of the act because she did not, as the press had argued, fulfill the functions of a minister; and that the application of Title VII to the publishing house did not violate the First Amendment. Moreover, even though Tobler's dismissal was based on her violation of a church doctrine prohibiting lawsuits by

members against the church, Title VII established compelling governmental interest in eliminating employment discrimination. Its prohibition of retaliation applied to the press. To permit retaliation by the press against Tobler would have resulted in the withdrawal of the protection of Title VII from the employees of the many diverse Adventist institutions in the U.S.<sup>46</sup> The opinion noted that if Tobler had been disfellowshipped, the case would have become immune from judicial review. However, after her dismissal from employment at the press, Tobler's local church had certified that her membership was in good and regular standing.

By the time the Fifth Circuit Court's decision was announced, two of its other decisions pointed in the same direction.<sup>47</sup> The Pacific Press opinion broadened the impact of the application of Title VII to religious institutions, confirming that it could be applied constitutionally to at least some of the employees there. The court opinion also validated some of these employees as secular workers rather than ministers.<sup>48</sup> The court's opinion has affected the rights of millions of employees of religious organizations. The opinion has since been cited widely in other cases. It has also been cited frequently in other cases where government regulation of religious activity is challenged as a violation of the Establishment Clause. The case also emphasized that the absolute free exercise claim made by attorneys for the press is not part of American constitutional law.<sup>49</sup> Adventist leaders chose not to appeal the decision to the Supreme Court. By that time, it was clear that they would have lost there also, thus compounding the significance of the outcome.

The Pacific Press cases were fought during the same period as Adventists were working, in Congress and the courts, for the right of members to opt out of labor unions. The



cases also followed on the heels of a period when church leaders had become openly concerned about the possibility of labor unions organizing the employees of their institutions. Church leaders were especially worried about the hospitals, where the proportion of non-Adventists in the workforce was increasing rapidly. Such concerns had first been expressed in 1957, and by 1960 guidelines had been issued to hospital administrators that were designed to forestall the establishment of labor unions in Adventist hospitals.<sup>50</sup>

These fears became more pressing when amendments to the National Labor Relations Act in 1974 extended its coverage to non-profit healthcare institutions and allowed employees to vote on whether to have a union represent them. Although the amendments allowed employees to opt out of a union for religious reasons,<sup>51</sup> there was no such provision for institutions owned by churches. When employees at an Adventist-owned nursing home petitioned for an election, the National Labor Relations Board, despite objections from the nursing home, ordered an election. It found that Congress had intended that the act apply to healthcare institutions operated by religious institutions in general, and by the Adventist Church in particular. However, although only three of the 146 employees eligible to vote were Adventists, the union lost. When a second election was scheduled at an Adventist hospital,<sup>52</sup> the Adventist Church went to court to have the election declared void and unconstitutional. This action was rendered moot when again the union lost the election.<sup>53</sup>

By the early 1970s, church administrators were worried about the possibility of labor problems emerging in the institutions that were usually staffed exclusively by Adventists, so they expressed considerable concern about Adventist teachers and professional organizations:

The church asked its teachers to carefully examine professional organizations before joining or supporting them to determine whether they operated as labor unions in addition to pursuing professional objectives. As a substitute for membership in organizations that might be perceived as unions, the denomination urged Adventist educators to organize themselves into an Association of Seventh-day Adventist Educators.<sup>54</sup>

The Pacific Press cases raise the question of the extent to which the Adventist anti-labor union position was now driven by the church's role as an employer of what had become a huge workforce; by its desire to use religion to maintain low wages; and by the ability of the church's "old boy network" to monopolize positions of power.

Increasing numbers of other members pressed suits against their church that did not attract the intervention of government agencies. The most significant of these was brought by Carole A. Rayburn, a woman who, after earning a Ph.D. in psychology, had then completed a Master in Divinity at an Adventist seminary. When she was denied a pastoral position, she charged the church with—again—sexual discrimination under Title VII of the Civil Rights Act of 1964.<sup>55</sup> When the church



was granted summary judgment in the U.S. District Court for the district of Maryland, her appeal was heard by the U.S. Court of Appeals, Fourth Circuit, in 1985. The court commented that the case raised "significant questions about the application of the civil rights laws to churches."<sup>56</sup> It explored the difference between the *Pacific Press* case, where the defendant was a church-owned institution and the plaintiff, the court had decided, was not a minister, and the *Rayburn* case, where the church itself was sued by a would-be minister.

The case highlighted the tension that had developed between the constitutional protection of freedom of religion and the attempts, through statutes, to eradicate all forms of discrimination. On the one hand, in the *Pacific Press* case, Title VII permitted religious discrimination—religious institutions were allowed to insist on hiring their own members—but Title VII did not permit discrimination on the basis of sex, race, etc. On the other hand, the court in *Sherbert* described the right of persons to believe and practice their beliefs according to conscience as "fundamental to our system." This freedom is also guaranteed to churches in their collective capacities, which must have "power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." Since "ecclesiastical decisions are generally inviolate," and "the right to choose ministers without government restriction underlies the well-being of religious community," attempts to restrict a church's free choice of clergy "constitutes a burden on [its] free exercise rights."

Given the tension described, everything depended on how the court balanced the two interests. It ruled that the balance weighed in favor of the free exercise of religion: that "the introduction of government standards to the selection of spiritual leaders would significantly, and perniciously, rearrange the rela-

tionship between church and state." That is, the Court of Appeals affirmed the judgment of the district court because "state scrutiny of the church's choice would infringe substantially on the church's free exercise of religion and would constitute impermissible government entanglement with church authority."<sup>57</sup>

The *Rayburn* decision has since often been cited in cases which have sought to apply civil-rights laws to churches and church-related organizations. For example, it was cited by the U.S. Court of Appeals, Sixth Circuit, in a case where a minister who had been dismissed by the Adventist Lake Region Conference alleged breach of contract because the conference did not follow its own procedural rules. The court held that the First Amendment barred civil review of a decision to discharge a minister even under such circumstances. The court also distinguished between the role of a minister, as in *Rayburn* (1985), and an employee of a publishing house, as in *Pacific Press* (1982).<sup>58</sup>

## Suits Brought by the Adventist Church

As the church leadership became more at ease with society, it increasingly adopted a corporate model for structure of the church. One corollary of this was the decision to trademark the name of the church, which it completed in 1981.<sup>59</sup> The purpose of this move, which came at a time when church leaders were becoming increasingly nervous about pluralism among Adventists, was to control which groups could use the church's name and, in particular, to prevent splinter groups or organizations which they regarded as unsavory from seeming to claim affiliation with the church.

This was a most unusual decision within religious polity, where we are used to multiple groups bearing the name "Baptist,"

"Pentecostal," "Methodist," or "Catholic," so that these names in fact signify broader "religious families." There is also a broad "Adventist" family, whose other members, such as the Advent Christian Church, like their Millerite forebears, continue to refer to themselves as "Adventists." Moreover, there is also a more circumscribed "Seventh-day Adventist" family, which includes such groups as the "Seventh-day Adventist Reform Movement," dating from about 1920, and various groups of "Davidian Seventh-day Adventists," who originally broke with the Adventist Church in the late 1930s. Because they have used the trademarked name for so long, the ability of the Adventist Church to force these groups to change names has, according to the legal doctrine of *laches*, vanished with the passage of time.

Consequently, when the General Conference of Seventh-day Adventists brought pressure on groups using the trademarked names in the latter-1980s, these were mostly "David and Goliath" maneuvers, in which the Adventist Church was cast as Goliath and took on small, recent, schismatic congregations which, without the resources to do battle in the court system, typically caved in on receipt of the initial threat. Only one of these cases, against a schismatic Hawaiian congregation, the Seventh-day Adventist Congregational Church, and its pastor, John R. Marik, reached the U.S. Court of Appeals (Ninth Circuit). But even in this case, the disparity in resources was central, for the mistakes made by Marik, who tried to represent the schismatic church himself, crippled its defense.<sup>60</sup>

*Adventist involvement in the courts has passed through phases. The first cases, when individual Adventists were arrested for working their farms on Sundays during the second half of the 19th century, confirmed the urgency of Adventist apocalyptic expectations.*

More dramatic was the suit against Seventh-day Adventist Kinship International, Inc., a "support group for gay and lesbian Seventh-day Adventists, their families and friends," in the U.S. District Court for the Central District of California, which was completed in 1991. The General Conference brief showed just how difficult it was to fit the language of a statute intended for commercial regulation to the activities of a church. The brief described everything in terms of unfair commercial competition. It made the claim that competition from SDA Kinship's newsletter was undermining its publishing empire

and that Adventists were likely to contribute heavily to SDA Kinship (mistaking it for the official tithe/offering conduit). The denomination's suit made no mention of homosexuality, or that this was an organization of gay and lesbian Adventists. However, the antipathy of Adventist leaders to gay and lesbian Adventists, particularly their carrying banners proclaim-

ing their name in Gay Pride parades,<sup>61</sup> is revealed by the fact that this was the only such suit where the Seventh-day Adventist Church sought damages: "Exemplary, punitive, and treble damages."

When church leaders filed this suit against an organization with fewer than 1,000 members, they failed to take the strength of the gay movement into account: The case was accepted by National Gay Rights Advocates, which arranged for Fullbright and Jaworski, a major legal firm, to defend Kinship on a *pro bono* basis. The church lost the case, at an admitted cost of more than \$200,000.<sup>62</sup> In her

opinion, Judge Mariana Pfaeizer pointed out that the term "Seventh-day Adventist" has a dual meaning, applying to the church but also to adherents of the religion. She found that the Seventh-day Adventist religion pre-existed the Seventh-day Adventist Church, that the uncontested use of the name by the Reform Movement and the Davidians indicated that the term does more than suggest membership in the mother church, and that the term, as used by Kinship, merely describes that organization in terms of what it is, an international organization of Seventh-day Adventists. Consequently, the judge found that "as used by SDA Kinship, the terms 'Seventh-day Adventist,' and its acronym 'SDA' are generic, and are not entitled to trademark protection."<sup>63</sup> Fearing a more devastating loss in the Court of Appeals, the General Conference chose not to appeal this result.

In 1996, an Adventist member offended by the fact that his church had trademarked its name, challenged its registration. The Trademark Trial and Appeal Board of the Patent and Trademark Office found the mark to be validly and federally registered: "for a period of over 130 years, the primary significance of the designation 'Seventh-day Adventist' has been to identify the source or origin of religious publications and services emanating from respondent [the Seventh-day Adventist Church]."<sup>64</sup> (Most members would no doubt be surprised to find the primary significance of the name of their church attached to such a commercial meaning.) When appealed to the Appellate Court, this decision was upheld in a case in which the appellant failed to appear.<sup>65</sup> The decision found that while *Adventist* was generic, *Seventh-day Adventist* was not. This decision cannot impinge on the right of the Seventh Day Adventist Reform Movement, the Davidian Seventh-day Adventists, or Seventh-day Adventist Kinship International, Inc. to use their names. But the court's decision can be used to prevent new

splinter groups within the Seventh-day Adventist family of religious groups from identifying their ties to it in their names.

## Conclusion

Adventist involvement in the courts has passed through phases that mark the movement of Adventism along the route from sect to denomination. The first cases, when individual Adventists were arrested for working their farms on Sundays during the second half of the 19th century, were much more than an economic imposition on members who had scrupulously observed their Sabbath on the previous day. The first cases confirmed the urgency of Adventist apocalyptic expectations. These distressing events reflected how separated Adventists were in their expectation of the imminent "end of the world." The ways in which neighbors reported them to the police and they were forced to endure arrest and imprisonment, revealed how communities viewed Adventists antagonistically. This confirmation of their apocalyptic expectations, together with the absence at that time of legal remedies for their plight, resulted in a fairly passive legal response to the problems.

There followed a period of some decades when the tension between Adventism and its social and political environment began to lessen. As Adventists built institutions and sought accreditation for them, they fought politically to delay the government persecution that they continued to believe would be the last sign heralding the return of Christ. Seventh-day Adventists consequently changed their position on military service from conscientious objection to noncombatancy, and began to experience upward mobility. This time of transition was marked by the almost complete absence of Adventists from the courts.<sup>66</sup>

Adventist cases returned to the courts dur-



ing World War II with the issue of would-be immigrants who were noncombatants. This occurred just as church relations with the U.S. military were strengthened by the military cadet training program. The years from the Korean War through the Vietnam War continued the sharp relaxation in tension. The U.S. military appointed Adventists as military chaplains. The church established a special military camp where noncombatants received their basic training. Adventists formed the majority in a biological warfare research program designed by the military especially for Adventists. The church accepted government grants by Adventist hospitals and educational institutions. Ultimately, Adventists even retreated from their commitment to noncombatancy in military service. The reciprocal acceptance by the U.S. Government of Adventists was symbolized by a major Supreme Court free exercise case,<sup>67</sup> which granted sabbatarians fired for reasons of conscience the right to unemployment benefits.

The period since the Vietnam War has celebrated and consolidated Adventism's new, much more comfortable relationship with society. With the multiplication of cases brought by Adventists into U.S. courts, the General Conference has concurrently restructured and expanded its legal department and sharply increased the proportion of cases litigated in-house.<sup>68</sup> The court cases of this period extended the protection of unemployment ben-

efits for those dismissed because of Sabbath conflicts to new converts; protected members with a conscientious objection to union membership; and recognized the right of Adventists to engage in door-to-door activity.

However, the majority of cases have not achieved their goal. They have focused on attempts to preserve the jobs of sabbatarians through application of the antidiscrimination clauses of Title VII of the Civil Rights Act. Because of a narrow interpretation given by the courts to the escape clause that accommodation should not cause an employer "undue hardship," the cases have brought little relief to Adventists. Although the coming of the five-day week removed many of the problems faced by sabbatarians, the increasing use of shift work in recent decades presents some Adventists with serious problems.

Throughout most of the history of Adventism, members who felt aggrieved by their church had little recourse. There was no effective internal mechanism for achieving justice available, other than, during her lifetime, attempting to persuade Ellen White, Adventism's charismatic figure, to intervene on their behalf. The denominationalizing of Adventism was reflected in, and in turn influenced by, its involvement in the courts. As the church moved from sect toward denomination, Adventists became more familiar with formal methods of dispute resolution. As part of this process, it developed a growing ease with use of the legal system.

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## NOTES AND REFERENCES

1. Rodney Stark and William S. Bainbridge, *The Future of Religion* (Berkeley, Calif.: Univ. of California Press, 1985), p. 23.

2. *Ibid.*, p. 49.

3. It found that while the First Amendment guaranteed freedom of religious belief, it did not necessarily protect freedom for any sort of practice and behavior (Armand L. Mauss, *The Angel and the Beehive: The Mormon Struggle With Assimilation* [Urbana, Ill.: Univ. of Illinois Press, 1994], p. 21; and Edwin B. Firmage and

R. Collin Mangrum, *Zion in the Courts: A Legal History of the Church of Jesus Christ of Latter-day Saints, 1830-1900* [Urbana, Ill.: Univ. of Illinois Press, 1988]).

4. M. J. Penton, *Apocalypse Delayed* (Toronto: Univ. of Toronto Press, 1985), p. 143; and J. A. Beckford, *The Trumpet of Prophecy: A Sociological Study of Jehovah's Witnesses* (New York: Wiley, 1975), p. 35.

5. In *Re Kinloch*, 53 F. Supp. 521 (District Court, W. D. Washington 1944).

6. The basis was three earlier cases (*United States v.*

*Schwimmer* 1929, *United States v. Macintosh* 1931, and *United States v. Bland* 1931) that had found against applicants who announced that they would not, as naturalized citizens, assist in the defense of the nation (In *Re Losey*, 39 F. Supp. 37 [District Court, E.D. Washington 1941]).

7. *Giroud v. United States*, 328 U.S. (1945).

8. Although the purpose of Senator Jennings Randolph in introducing the 1972 amendment that became Section 701(j) of the act was to apply it more readily to Sabbatarians whose jobs were threatened, the principle it established, that employers should accommodate the consciences of employees except where this would cause undue hardship, proved relevant also to cases where employees held a conscientious objection to union membership.

9. Nottelson and Tooley were both Adventists, but Nichols, the employee in Boeing, was not. The latter decision built upon *Tooley*.

10. *Nottelson v. Smith*, 643 F. 2d 445 (7th Cir. 1981).

11. However, the following reminiscence by a General Conference lawyer illustrates the diversity of opinion on this issue among Adventists: "I remember going to visit a labor leader in New York City who was puzzled by our members. In a nursing home that had been unionized, one SDA was the union representative, and another refused to join the union. The first was the wife of a pastor and the second was a local elder. Both were black."

12. Interview. (Footnotes marked *interview* refer to interviews conducted by Ron Lawson).

13. *Sherbert v. Verner*, 398 U.S. (1963).

14. S.C. Code, s 64-4.

15. *Hobbie v. Unemployment Appeals Commission*, 480 U.S. 136 (1987).

16. Robert W. Nixon, "Landmarks in the Law," *JD* (1988), 45-48.

17. *Jackson v. VeriFresh Poultry, Inc.*, 304 F. Supp. 1276 (District Court, E.D. Louisiana 1969); *Riley v. Bendix*, 330 F. Supp. 583 (District Court, M.D. Florida 1971).

18. *Martin v. Pacific Northwest Bell Telephone Company* 441 F. 2d 1116 (9th Cir. 1971); *Dawson v. Mizell*, 35 F. Supp. 511 (USDC, ED, VA, 1971).

19. Randolph stated, when speaking to the amendment, that its purpose was to "resolve many of the issues left open by prior 'Sabbatarian' cases, where employees had refused to work on their Sabbath and requested that their employers accommodate them."

20. *United States v. City of Albuquerque*, 545 F. 2d 110 (10th Cir. 1976).

21. Interview.

22. Thomas E. Wetmore, "Hardison Plus Five," *JD* 1983 pp. 23-24.

23. *Cooper v. General Dynamics*, 15 F. 3d 1166 (6th

Cir. 1994), *Beadle v. Tampa*, 42 F. 3d 663 (11th Cir. 1995), *Cowan v. Gilles*, 81 F. 3d 160 (6th Cir. 1996).

24. For example, *Lake v. Goodrich* 837 F. 2d 449 (11th Cir. 1988), where an Adventist won a grudging, split decision acceptance of a lower court decision when it was appealed by the employer to the court of appeals.

25. Lee Boothby and Robert W. Nixon, "Religious Accommodation: An Often Delicate Task," *JD* (1983), pp. 45-51.

26. *Opuku-Boateng v. State of California*, 95 F. 3d 1461 (9th Cir. 1996).

27. *New York City Transit Authority v. State of New York*, 651 N.Y.S. 375 (Court of Appeals of New York 1996); *Russell v. Butte Silver-Bow*, Montana Human Rights Commission, unreported (1997).

28. *Genas v. State of New York*, 75 F. 3d 825 (2d Cir. 1996).

29. The case is still in litigation at the time of writing.

30. *City of Boerne v. Flores*, No. 95-2074, 1997 WL 345322 (U.S. June 25, 1997).

31. *Tate v. Akers*, 565 F. 2d 1166 (both Cir. 1977).

32. *Espinoza v. Rusk*, 634 F. 2d 477 (both Cir. 1980).

33. Interview.

34. *Ibid.*

35. George Wood Colvin, Jr., "The Women, the Church, and the Courts: Sex Discrimination and the First Amendment," Ph.D. Dissertation in Government, (Claremont Graduate School 1986), p. 1.

36. *Equal Employment Opportunity Commission and Silver v. Pacific Press Publishing Association*, 535 F. 2d 1182 (9th Cir. 1976).

37. Merikay McLeod, *Betrayal* (Loma Linda, Calif.: Mars Hill, 1985).

38. General Conference of Seventh-day Adventists, *Autumn Council: Actions Pertaining to the North American Division* (Washington, D.C.: Review and Herald Publishing, 1971) pp. 39-45.

39. Interview.

40. *Ibid.*

41. Colvin, "The Women, the Church, and the Courts: Sex Discrimination and the First Amendment," pp. 300-307.

42. McLeod, *Betrayal*, p. 285.

43. Colvin, "The Women, the Church, and the Courts: Sex Discrimination and the First Amendment," p. 310.

44. *Ibid.*, p. 297.

45. *Ibid.*, p. 496. The claim of a religious belief against litigation is different from the usual Free Exercise claims that laws require petitioners to do something against their belief in the sense that the former focuses not on something the petitioner feels he or she cannot do, but would constrain someone else—an employee or member—from suing the church.

46. *Equal Employment Opportunity Commission v.*

*Pacific Press*, 676 F. 2d 1272 (9th Cir. 1982).

47. *Equal Employment Opportunity Commission v. Mississippi College*, 626 F. 2d 477 (5th Cir. 1980); *Equal Employment Opportunity Commission v. Southwestern Baptist Theological Seminary*, 651 F. 2d 277 (5th Cir. 1981).

48. Colvin, "The Women, the Church, and the Courts: Sex Discrimination and the First Amendment," p. 479-480.

49. *Ibid.*, pp. 476, 487, 575.

50. Robert C. Kistler, *Adventists and Labor Unions in the United States* (Washington, D.C.: Review and Herald Publishing, 1984), pp. 66, 67.

51. *Ibid.*

52. Hackettstown Community Hospital, in New Jersey.

53. Kevin Wilson, "Health-Care Institutions and Labor Unions," *JD* (1981), pp. 18-21.

54. Kistler, *Adventists and Labor Unions in the United States*, p. 69.

55. The irony of this case is that the position had been awarded to another woman.

56. *Rayburn v. General Conference of Seventh-day Adventists*, 772 F. 2d 1164 (4th Cir. 1985).

57. *Ibid.*

58. *Lewis v. Seventh-day Adventist Lake Region Conference*, 978 F. 2d 940 (6th Cir. 1992).

59. The General Conference registered a trademark on "Seventh-day Adventist," and "Adventist" in the U.S. A General Conference lawyer explained that although "SDA" was not listed, they were ready to assert that it

was protected under the umbrella if there were a controversy over it.

60. *General Conference Corporation of Seventh-day Adventist v. Seventh-day Adventist Congregational Church*, 887 F. 2d 228 (9th Cir. 1989).

61. Duncan Eva, "Letter to Various Church Employees," August 19, 1986.

62. Kenneth Edward Piner, "Seventh-day Adventist' Not Always a Trademark," *Spectrum* 22:1 (March 1992), pp. 63, 64.

63. *General Conference Corporation of Seventh-day Adventists v. Seventh-day Adventist Kinship, International, Inc.* (USDC, CD, CA, 1991. Case No. CV 87-8113 MRP, unentered).

64. Adventist News Network, *ANN Bulletin* (Seventh-day Adventist Church World Headquarters), March 8, 1996.

65. *Stocker and Perry v. General Conference Corporation of Seventh-day Adventists*, 95 F. 3d 1168 (Fed. Cir. 1996).

66. See Lawson's article in *Spectrum*, Volume 24, number 4, April 1995, for further information.

67. *Sherbert* (1963).

68. In addition to the General Counsel, who heads the department, its staff now contains five other full-time attorneys specializing in religious discrimination law and church-state relations; tax law; employee benefits and pensions; corporate and constitutional law; estate planning; employment, immigration and naturalization; and sexual misconduct.

# Ode to an American Marine From Bountiful, Utah, Killed in the Gulf

*When in eternal lines to time thou grow'st,  
So long as men can breath or eyes can see,  
So long live this, and this give life to thee.*

—William Shakespeare, Sonnet 18

## I

So here is what I give you:                      hero for  
A title — which is better than the one  
For this parade of words — but poor, quite poor  
Of course, considering; then, instead of fun  
For your young body (your young buddies guess  
My meaning . . . can still snigger, right or wrong)  
A funeral attended by the press  
With mists of wordswordswords, incense and song;

Our best obsequiousness,                      this champagne  
Of modern courtesies,                      we give you — see  
Your TV coverage?                      Well, we admit  
You don't.                      Still your father, stoic debris  
Beside your coffin,                      talks with eyes of grit  
About the worthwhile nature of your death  
While others (mother and brother) refrain  
From trying to make it rhyme,                      save their breath.

## II

A few days earlier we even saw  
Your teachers on the box.                      How clean they stood,  
In suits and earrings,                      speaking in an awe  
They always had but never knew they should  
Have felt when you were in the classroom or  
Strolled, laughing, through the noisy open plan.  
Today a silence fills                      the corridor.  
This silence has no cadence,                      does not scan.

The cameras showed your uniform                      and you  
Surrounded                      by a frame of guilt there on  
The mantelpiece and                      suddenly                      this view  
Brought home the harshest harm from what has gone,  
For every lineament of eye and cheek and skin  
Cried out as poems never can                      that boys  
Are larger than America.                      Your chin  
Was an impeachment against poets' noise.

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## III

Hero?                      It's such a 1950s term,  
So square.                      No sleek Tornado mission has  
Ever been that neat.

Well . . .

                    Your crew-cut sperm  
Would not have sought geometry,                      but as  
Unpredictable as the deaths of Scots  
In friendly fire would have scorched its way in  
Women. How it would have burned, and in lots  
Of them, too — given your face, strong as sin  
And as taut as the rectangle round that  
Photograph. We still see those eyes, that straight  
Stare. Technology turned you into . . . flat  
Image.                      This was before we made your date  
And camera crews converged from round the world  
On your Mormon, four-square town.

But for whom?

Not for your mother.

                    On her lap a furled  
Triangle, stripes and stars, points to her womb.

## IV

                    So why have I decided I will give  
These verses out?                      It has to be because  
Not one of us you                      left behind can live  
Your life for you.                      That is the thought that gnaws  
Away at time.                      And since we cannot stain  
The universe                      with all that you have lost  
And should have done,                      and since that serried pain  
You left in place of life,                      though beyond all cost,  
Is cheap in lieu of you,                      I have to make  
These inexpensive stanzas,                      lest we  
Presume that there is something rich to take  
To you there in your grave,                      some fragrant fee,  
Like myrrh and aloes,                      which might put a stop  
To that hemorrhaging *not* shown on our screens,  
The desert blossoming in rows of crop-  
Like death                      planted by laser-sure machines.

—by Phillip Whidden



# Do Not Press Me To Leave You

Ruth and Naomi as survivors, friends, and redeemers.

by L. Jill Lamberton

AS A SENIOR RELIGION MAJOR AT WALLA WALLA College, I was short three credits of Old Testament course work and, due to a time conflict, I couldn't take Dr. Alden Thompson's Old Testament survey class. The only solution was to either stay in school an extra quarter or arrange an independent study. I went knocking on Dr. Doug Clark's door looking for a project interesting enough to keep me motivated "independently." I would like to complete my Old Testament credits, I told him. But more than that, I'd like to study some stories about women.

A poster that now hangs above my computer reads, "Celebrate women survivors. Invent new herstory. Shatter myths, pioneer, trailblaze." When it comes to the biblical stories, I'm convinced that the her-story doesn't

need to be newly invented: It's already there in the text. But her-story *does* need to be newly told, newly studied, newly celebrated. Within our faith community we often center our celebrations around the Bible's heroic men: Moses, Abraham, Jeremiah, David. When I turned to the Book of Ruth during my last year at Walla Walla College, I was looking for a different kind of party.

Recently I listed all the people in my life whom I hold up as models of faith: my two grandmothers, a grade school teacher, a high school teacher, a close family friend, my parents. With one exception, the list is comprised of women. Pillars of faith. Survivors. Perhaps that is why I like the Book of Ruth so much. It is the story of two women survivors who become pillars of faith for centuries of Judeo-Christian believers, yet their story seems particularly relevant in our post-modern era when women are frequently called upon to create their own destiny without the help of male relatives and friends. Whether or not we celebrate women as models of faith, the reality is that often they are the ones left to carry on

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after famine, death, divorce, and unemployment strike the land. Ruth and Naomi are all that remain of one prominent family after the famine in Moab, and together they make a pretty good story—a model of faith, friendship, patience, and redemption.

## Ruth as the First Hebrew Short Story

One critic goes so far as to claim that “the Scroll of Ruth is the most perfect narrative of the Bible.”<sup>1</sup> Robert Alter calls the author of Ruth “one of the most brilliant masters of formal technique among biblical writers.”<sup>2</sup> Ruth is a wonderfully subtle story. The action, scene progression, and dialogue are artfully and carefully constructed. This narrative is a tight one, with few superfluous details. Samuel Sandmel says that Ruth is one of the few biblical narratives whose writing “gives every evidence of deliberate, creative plan.”<sup>3</sup> In contrast to a structuralist literary theory, which says all plots must contain some moment of paramount conflict, the Book of Ruth is surprisingly devoid of conflict. As Sandmel notes, “Those who speak of the story as a series of vignettes are on the right track, for what takes place in Ruth is the unfolding narration of

*subsequent* incidents, rather than *consequent* ones.”<sup>4</sup> The story opens and quickly recounts that Naomi’s husband and two sons have died, that there is famine in Moab and that Naomi’s sons have left behind two widows. Little more detail is given. When were Naomi’s sons married to Ruth and Orpah? How did they die? Why doesn’t Ruth want to return to her family? These and other questions are left unaddressed. The narrator of Ruth gives only enough information to provide a clear background for the following events. Nothing extra is added. Nor is there a fantastic element to the story; there is no need to willingly suspend disbelief, as Samuel Coleridge proposed is often necessary with great fiction. Everything in Ruth is plausible.

Well, almost everything. The incredible element in this story comes not through gripping action but through the boldness of the characters. Indeed, the characters in Ruth are the major charm of the book. As readers and believers, we are drawn to people of integrity. The Hebrew word used in this book to describe the characters of Ruth and Boaz is *chayil*: people of worth, virtue, value, or wealth. In Ruth 3:11, Boaz tells Ruth, “. . . I will do for you all that you ask, for all the assembly of my people know that you are a worthy woman.”<sup>5</sup> A worthy woman, a woman of *chayil*. When Boaz is first introduced in Ruth 2:1, he is described as “a prominent rich man,” a man of *chayil*. This Hebrew word is translated in several ways, but the important message is that Ruth and Boaz are both people whose worth and virtue are noted by all with whom they have contact. Boaz tells Ruth that “all the assembly of [his] people” know that she is a good person. The characters in Ruth attract attention and respect, creating the wide appeal of the narrative.

Edward F. Campbell, Jr. proposes that the intricate construction of Ruth places the book as one of the first and best Hebrew short stories: “it is an exemplar of a particular literary



form in Israel, and a classic example at that."<sup>6</sup> Beyond the characters, the prose of Ruth is memorable, employing tools of repetition in dialogue, characterization, and even action that is unquestionably tantalizing. Take, for example the threshing floor scene: "When Boaz had eaten and drunk, and he was in a contented mood, he went to lie down at the end of the heap of grain. Then [Ruth] came stealthily and uncovered his feet, and lay down. At midnight the man was startled, and turned over, and there, lying at his feet, was a woman!" (Ruth 3:7, 8). In choosing the Hebrew verb *skb* to convey Ruth's action in this passage, the author intentionally employs a double entendre. The verb can mean "to prostrate oneself at the feet of one in a gesture of petition,"<sup>7</sup> and this is the translation officially given to the text. However, the verb can also mean "to sleep with" or "to have sexual intercourse."<sup>8</sup> Certainly the author of Ruth purposely left the scene ambiguous in order to tease the audience. Most of the Hebrew Bible uses the verb meaning "to know" when referring to sexual encounters, but the author of Ruth cleverly and purposefully chooses a different verb. The choice of a word that clearly has double implications is certainly artful. Campbell stresses the integrity of the implications in the threshing floor scene:

Entertainment and edification in Hebrew storytelling, especially when closely bound to the common life of real, if typical, men and women, do not turn squeamish at the last minute. The situation at the threshing floor is told as it is, precisely because it would have had a quite different outcome with different people from this remarkable threesome with whom the story is dealing. Every bit of suspense is intended. But the audience has been led to realize that in chapter two Boaz and Naomi both have Ruth's best interest very much at heart and that both approve of her modesty and fidelity. Now the storyteller presents the conditions for the acid test.<sup>9</sup>

There is no denying that the author creates suspense in this story and does not shy away

from the moral difficulties that come even to loyal, faithful people. Ruth's venturing onto the threshing floor, a place where only men are allowed, is suggestive no matter what happens once she gets there. The author of the text does not wish to exclude the audience from the tension, the risk, that Ruth takes that night on the floor. Whatever happens, the audience is meant to know that the moment was tense, questionable, and even exciting. Having accomplished the desired narrative purpose, the author quickly "shifts from a focus upon sleeping to a focus upon redeeming."<sup>10</sup> Redemption, after all, is the theme of this story.

The characters are redeemed in a variety of ways by a number of different people. Ruth is portrayed throughout as "the defier of custom, the maker of decisions, and the worker of salvation."<sup>11</sup> Her determination angers Naomi, silences Boaz, and shocks the audience. When she pleads with Naomi, "Do not press me to leave you, or to turn back from following you!" (Ruth 1:16), the audience knows we are dealing with a woman of conviction, and we remember her words. This story catches our attention because of its sharp contrast to other popular Old Testament tales of the warring, bumbling Israelites. The Book of Ruth offers much in its subtly crafted construction of friendship, commitment, and social consciousness. We remember the story for its relationships, for the ways the characters embrace, contradict, empower, and redeem each other.

## Ruth as a Sacred Text for Women

Perhaps the most-needed gift that the story of Ruth offers 20th-century readers is its strong female characters. In this age we are all too aware that the Bible is the product of a patriarchal society. Biblical genealogies list fathers and sons; the mention of a female

ancestor is rare and significant (thus the excitement over the narrator's claim in this book's closing verses that Ruth is the great-grandmother of King David and, for a much later audience, an ancestor of Jesus). A biblical census gives the number of adult males only; women and children must be inferred and estimated. The result is a patriarchal sacred text that contains few stories of complex female characters. In fact, many contemporary women believe that the Bible is strictly a "man's book," that its stories have little to offer women.

Recent scholarship, particularly literary criticism of the Bible, asserts there is more to be gleaned from the female biblical characters than was traditionally thought. Biblical scholarship has been, until very recently, male-centered, and critics such as Judith A. Kates and Gail Twersky Reimer fault the scholarship more than the Bible itself for the current lack of female-centered interpretations:

Although the texts of the Hebrew Bible have been shaped by male authors and editors, we believe that it is *interpretive traditions* more than biblical texts that leave women feeling excluded. Too often, women recognize ways in which a traditional text speaks to their experience as women, but when they turn to commentary, they find little that speaks to either their experiences as women or their experiences as women reading/confronting a biblical text.<sup>12</sup>

This cry for interpretations that speak to the female is not new, but we see increasingly that it can no longer be ignored. This, for me, is the

treasure hidden within Ruth. The biblical canon here answers the cry for female-centered stories, and the task for modern readers and scholars is to tell the stories that have been previously silenced or neglected.

In 1994, a group of women in Boston published an anthology of essays on the book of Ruth entitled *Reading Ruth: Contemporary Women Reclaim a Sacred Story*. The introduction tells how the book grew out of a Bible study group, formed by women who came to the Bible and to each other in an effort to create "a room of their own." What these

women found in Ruth and in one another was a new interpretive tradition, a place to celebrate the women survivors in the Bible, thereby giving dignity to the women survivors of our own time.<sup>13</sup>

The Book of Ruth is a model for feminist interpretation because it so successfully captures the issues women deal with in their continued yet strained commitment to a patri-

archal religion. Kates and Reimer, the editors of *Reading Ruth*, suggest that "perhaps more than anything else, the story is an emblem of women like ourselves seeking to feel at home in a patriarchal tradition and discovering support and sustenance in both the resources of that tradition and the voices of other women."<sup>14</sup> We must lift up these emblems for the women who are pillars of faith in our own communities.

The advent of feminist biblical scholarship has been long in coming, but exciting. It is also a frustrating, and in some cases, largely speculative task. The Bible contains many passing references to females, but much of their stories

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*"Do not press me to leave you," Ruth pleads, not beginning to fathom that she is intended to fill Naomi where the Almighty has left her empty. The words of Ruth become the vow of a companion and a redeemer, the assurance of divine presence and forthcoming blessing.*



must be inferred or sought out from other sources. In many cases, we simply do not and cannot know the history of biblical women. But the Book of Ruth is different. Refreshingly so.

The story of Ruth is particularly illuminated under feminist interpretation because so many of the established social norms are reversed in its narrative. Phyllis Trible summarizes the story of Ruth and Naomi this way: "These women bear their own burdens. They know hardship, danger, insecurity, and death. No God promises them blessing; no man rushes to their rescue. They themselves risk bold decisions and shocking acts to work out their own salvation in the midst of the alien, the hostile, and the unknown."<sup>15</sup>

The book opens as the husbands of three women, Naomi, Ruth, and Orpah, have died. There is famine in the land and no one to care for these women. They must look after their own needs, and Naomi, the mother-figure, decides to journey to her homeland in Judah. Since these women have no husbands and no sons, they very literally have no hope of life. Naomi is especially grieved because her family will die out with her own death; she has no descendants. At the start of the story she is determined to return to the land of her childhood where she can find food and die a peaceful and forgotten death. What she does not plan on is her stubborn daughter-in-law.

Naomi urges each of her daughters-in-law to return home, saying, "Go back each of you to your mother's house" (Ruth 1:8). The phrase, "to your mother's house" is surprisingly unexpected in the context of a patriarchal culture where the home is always the house of the father and the mother's presence is generally excluded. Some critics suggest that Naomi's adaptation of the phrase in this case indicates the total absence of males in the narrative of Ruth. All the men have died, while the "females live; they are persons; their presence in the story continues."<sup>16</sup> When there

are no men around to save them, the women still go on.

Ruth announces she will go with her mother-in-law to a foreign land, making the famous pledge to Naomi, "Where you go, I will go; where you lodge, I will lodge; your people shall be my people, and your God my God. Where you die, I will die—there I will be buried. May the Lord do thus and so to me, and more as well, if even death parts me from you!" (Ruth 1:16,17). Ruth may be unusually loyal to her mother-in-law, as generations of critics have assumed. More likely, however, Ruth simply has nowhere to go. Returning home is not an option for Ruth, and she must therefore find a place for herself. Apparently Ruth decides the safest place is with Naomi. Naomi, who has seen her whole family die, and is no doubt alone and scared, decides not to argue with Ruth, although she does make it clear to Ruth that Orpah, who returns home, makes the wiser decision (Ruth 1:15). Trible stresses that Ruth's choice makes no sense: "If Naomi stands alone by force of circumstances, Ruth stands alone by the force of decision."<sup>17</sup> Ruth's decision is indeed radical, but one must remember that this entire narrative turns established social norms about-face. Ruth, through her choice to follow Naomi, has nothing. She rejects her family, her God, her homeland, and apparently her possibilities for offspring. She leaves everything that is known for what is unknown.

## Ruth and Naomi as Models of Female Friendship

The story of Ruth speaks to readers on many levels of religious experience, and it would be misleading to limit the scope of Ruth's application to feminist issues alone. The Book of Ruth is not only a story of assertive and inventive women, but also a poignant account of human need and emo-

tion. The relationship between Ruth and Naomi is admired as one of intense loyalty and enduring friendship. It is precisely because Ruth and Naomi are so vulnerable with each other that they are so appealing to successive generations of readers. We feel their need, admire their commitment, and desperately want them to win.

As we have already seen, Ruth's choice to follow Naomi is surprisingly radical precisely because of what she gives up in choosing her mother-in-law over her own family. Tribble points out that "not only has Ruth broken with family, country, and faith, but she has also reversed sexual allegiance. A young woman has committed herself to the life of an old woman rather than to the search for a husband. . . . One female has chosen another female in a world where life depends upon men."<sup>18</sup> So Ruth gambles with Naomi, perhaps because of her immense love for her mother-in-law, or perhaps because she really has no other choice. In any event, Ruth's decision to stay with Naomi is not totally selfless; she stands to gain by Naomi's eventual prosperity.

Ruth Anna Putnam is intrigued by the question of whether the friendship between Ruth and Naomi is one of equality, or more specifi-

cally, whether friendship, to be truly classified as such, must exist between two people of equal standing. Ruth and Naomi, she insists, are not equals: "both women were widows and of the same social class, but because Ruth was young and healthy while Naomi was old, broken perhaps in body as well as in spirit, Ruth made all the hard choices, did all the hard work, and took all the risks."<sup>19</sup> Whatever the case, in the opening scenes of this story Ruth and Naomi are both losers, both have lost. So the possibilities for manipulating or taking advantage of one another are slim. They hold each other up, but they have no way of knowing how long the other will remain on her feet. For each woman, taking the other as companion is a gamble. It's also one they are willing, out of desperation and perhaps out of hope, to wager.<sup>20</sup> There is a point, however, when such discussions become irrelevant. Ruth says she will stay with Naomi, and she does. Naomi permits Ruth to follow her, and once in Judah, they work together for their mutual security.

Ruth and Naomi know they also need each other and maintain a commitment amid intense hardship and, ultimately, reward. Ruth is a radical, and she chooses Naomi for the same reasons. Neither woman is confined by the social dictations of their separate traditions. Ruth is a Moabite, Naomi a Jew. Were these women enemies, their varied backgrounds would be an adequate explanation for their tension, but neither Naomi nor Ruth is hung up on senseless tradition. Ruth chooses Naomi because Naomi is willing to break the rules. Putnam argues, "It is important to realize that Ruth would never have loved Naomi if Naomi had not acted in ways that ran counter to her tradition. . . . Ruth chose Naomi out of a deep love, a love kindled by Naomi's character. Ruth was an extraordinary human being, but Naomi was her model."<sup>21</sup> Ruth and Naomi, whatever their initial motives, are friends. Theirs belongs in the line-up of our favorite



friendships: David and Jonathan, Laurel and Hardy, Batman and Robin, Lucy and Ethel, Calvin and Hobbes, Thelma and Louise.

An important point that seems almost forgotten in this discussion of friendship is that it grows and deepens based upon mutual experience. The reason Ruth chose to follow Naomi in Moab would be only a small fraction of the reason she would choose Naomi when Ruth bears Obed and, out of trust and love for Naomi, presents her mother-in-law with a son. Once Naomi and Ruth have endured together what they face throughout their story, their friendship is sealed in such a manner and for such a plethora of reasons that it is impossible to say why they are friends. Maureen Duffey has captured what I believe to be the essence of this sort of friendship. The poet chooses the thoughts of Ruth as the standpoint from which to tell her version of the story of inexplicable commitment:

"Whither thou goest," she said thinking:

"Gods but that's a hellhole desert dry  
arsehole no man's land but here would  
be an aloneness too stark to suffer there  
would be you."

So she said, elaborating, "Thy people will  
be my people," meaning take me into your  
family and added as an afterthought because  
she knew it would please her sometime  
mother-in-law (does death sever such legal  
bonds)? "and thy god shall be my god"  
thinking: "Now what was he called?"

..... "Listen,"

she said to Boaz. "Your kinsman's widow,  
she's been like a second mother to me. I  
couldn't just walk out and leave her." And he  
looking at her rich pastures said: "Fine,  
bring the old lady if you want her." And Ruth  
said: "I do, I do."<sup>22</sup>

Duffey ends her poem with the words "I do," an allusion to the traditional English marriage vow. Her poem is an excellent illustration of the literary effect achieved through careful word choice. When one considers the depth of Ruth's commitment to

Naomi, it is not surprising that Ruth's vow, "Whither thou goest, I will go . . ." has become a sort of secondary marriage vow for many couples. Ruth and Naomi have endured to become a model of commitment, mutual sacrifice, and mutual devotion.

## Where Did God Go?—Ruth as 20th-Century Theology

Through careful analysis of the characters and their story, we come to the theology of the Book of Ruth. While Ruth may serve as a model of female friendship and female action, many see the book as rather silent on the role of God in human life. God, in Ruth, is elusive; while God is present in the text, it is not clear where, nor for what purpose. There is no direct divine action. The narrator does not interject to say what God has done for Ruth and Naomi, except at the end of the book to say that God has made Ruth conceive a son (Ruth 4:13). In general, God does for Ruth and Naomi what Naomi says God has done. In other words, God is an explanation offered by Naomi for her own struggle and redemption. In many ways, the Book of Ruth provides a helpful theological model for 20th century readers. I suppose I am drawn to the Book of Ruth because the God of the 20th-century is often depressingly elusive, silent in the moments of greatest crisis. It often seems that God exists only where believers say so. And indeed for many believers, the only divine goodness and blessing we can see are those that friends and relatives, other humans, give.

In the Book of Ruth, the line between human action and divine action is clouded. Perhaps the question of God's presence was not as relevant for the initial audience of the book as it is for the 20th-century reader. Or perhaps their questions were surprisingly similar to ours. Whatever the case, it is clear that God is not the focal point of the narrative in

the Book of Ruth . . . humans are. For Ruth, "God is somewhere between belief and practice, the words and actions, the relating of the human characters in this very human story world. God is not to be pinpointed, God's point of view cannot be determined, and God's providence is not to be equated with the speech or the action of any one of the characters."<sup>23</sup>

Ruth and Naomi clearly act for themselves. Once Naomi is aware of Boaz's kindness toward Ruth, she immediately begins scheming her plan of attack. Tribble notes, "[Naomi] does not wait for matters to take their course or for God to intervene with a miracle. Instead, she herself moves from being the receiver of calamity to becoming the agent of change and challenge."<sup>24</sup> It is impossible to distinguish between what comes to Naomi because God is looking out for her and what comes because she hedges her bets, looks out for herself and her daughter-in-law. This story does not distinguish between the giver and the recipient. Naomi is blessed by Ruth, Ruth by Naomi, Naomi and Ruth by Boaz, Boaz and Ruth and Naomi by God, etc., etc. The point is that blessings come. From whence they come is unimportant.

The distinct character of God is secondary, if not altogether irrelevant—Ruth and Naomi are God to each other and don't spend much time waiting for divine rescue. The Book of Ruth is theologically woven to carefully "correlate God's will and human action so inextricably as to make each of the main protagonists the servant of God to the other."<sup>25</sup> Of course God is wherever believers say God is because only in those places can God be effective. This theological explanation may seem anti-climatic in comparison to the God who has a definitive presence and personality in many other Old Testament stories. Sometimes the God of the 20th century is, however, unquestionably anti-climactic to the God of preceding generations.

Viewing God's action as interposed with human action is not meant to say that God is irrelevant, but simply that the specifics of God's nature do not come to those who wait. Tribble argues that the theological interpretation of the Book of Ruth is "women working out their own salvation with fear and trembling, for it is God who works in them. Naomi works as a bridge between tradition and innovation. Ruth and the females of Bethlehem work as paradigms for radicality. All together they are women in culture, women against culture, and women transforming culture."<sup>26</sup> Naomi is blessed with a son because she plans her own blessing. She is also blessed because Ruth is her friend and companion and because Boaz is a man of principle and responsibility who does not shun his social and moral obligations. God is seen in the characters of Ruth, Naomi, and Boaz because divine nature is revealed in the people of *chayil*. God blesses through the actions of Ruth, of Naomi and of Boaz. And in the end, the miracle of conception and birth is completed, but again with the cooperation of Ruth and Boaz. The theology of Ruth is the religion of people committed to people, committed to ethical living, and committed to God. They know which rules to break, and which ones to keep. When the crisis is over, they know whom to thank for their blessings: themselves, and their God, together.

When we insist that God's presence is seen through the characters in the Book of Ruth, in their words and their actions, then the theological interpretations of this story become as complex as the people in it. Naomi's cry, "I went away full, but the Lord has brought me back empty" (Ruth 1:21), is no longer a pronouncement of divine absence but rather the crucial background for Ruth's entrance. Naomi is in need of spiritual blessing and Ruth therefore has a role to fill. Her purpose as a worthy and virtuous woman is to become the social and spiritual redeemer of Naomi. Naomi

will concurrently provide Ruth the same type of redemption. Ruth vows she will be loyal to Naomi even in death, and she thus brings life and the assurance of lineage to Naomi through the birth of Obed.

"Do not press me to leave you," Ruth pleads, not beginning to fathom that she is intended to fill Naomi where the Almighty has left her empty. The words of Ruth become the vow of a companion and redeemer, the assurance of divine presence and forthcoming blessing. Somewhere in all this we see that we, too, are redeemed and

blessed by those who say, "do not press me to leave you or to turn back from following you!" in the midst of famine, death, and emptiness. When the famine has passed and the redemption is clear and complete, we, too, are compelled to lift up the pillars of faith among us, those who have helped lead us to blessing and salvation. Redeemed, how I love to proclaim it. Redeemed by my friends and my relatives, my fellow believers. Redeemed by those who believe and endure in spite of the odds.

Celebrate the survivors.

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# The Concubine And the Cross

The concubine as martyr in Judges 19-21; the ravished Galilean as redeemer in the Gospels.

by Jean Sheldon

THE STORY OF THE LEVITE AND THE CONCUBINE of Judges 19, with the resulting inter-tribal warfare in chapters 20-21, has not been the most favored narrative in the Hebrew Bible for scholarly research until recently.<sup>1</sup> At times, its moral value has been questioned.<sup>2</sup> Nevertheless, the account is starkly composed, exposing ideological and sociological tensions within the Israelite community rarely found. In addition, its moralistic elements—though brutal in their frankness—contribute the opportunity for a timely modern reading of Israel's story together with ours.

This reading will examine the entire narrative with the purpose of attempting to understand the moral reasons for its telling and retelling, the narrator's intent by subtle shadings of the various characters involved, the tensions developed in the retelling,<sup>3</sup> and the insights revealed.<sup>4</sup> The story will be analyzed

as a complete unity together with the tensions,<sup>5</sup> in an effort to answer the two most important questions it raises: "Who are the guilty?" and "What were the crimes?" Finally, analogies will be made, wherever applicable, to the current Adventist story.

## I. The Ravishment of the Concubine—The Characters in the Plot

The story opens with a number of ambiguities pertaining to the characters. To begin with, the exact status of the concubine is uncertain. The terms describing her fluctuate throughout, and it is not clear whether she was merely a slave woman bought to be a concubine or was later elevated to wifehood.<sup>6</sup>

A textual question is raised when the concubine leaves her husband to return home. Was she angry with him (LXX)<sup>7</sup> or did she become a prostitute (MT)?<sup>8</sup> The difference cannot easily be explained by a textual error.<sup>9</sup>

The status of the concubine in the story

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seems to fluctuate, then, between that of a wife acquired by payment who turns to prostitution and thus might be blamed for what follows, and a daughter sold as concubine-slave, who becomes angry at what she perceives as mistreatment on the part of the Levite and so returns home. Elements in the narrative favor the latter interpretation.<sup>10</sup>

Further ambiguities appear regarding the woman's father and the Gibeon host. The father seems extremely friendly to the Levite, but in the end appears reluctant to let the Levite (and thus his daughter) go. Does he have premonitions of a tragedy? On the other hand, the host in Gibeah is congenial and hospitable, but in the end his hospitality and protection exclude the concubine.<sup>11</sup>

Finally, the Levite also seems bewildering. At the outset, he starts out intending to "speak kindly" (Judges 19:3, RSV)<sup>12</sup> to his estranged wife and bring her back, yet when he arrives he focuses his attention solely on her father. Indeed, he says nothing to her throughout the rest of the story—until the sad morning when he opens the door to resume his journey, finds her ravished body, hands stretched out imploringly on the threshold, and says two short, chilling words: "Get up! Let's go!" *These are the only two words the Levite speaks to her in the entire narrative.*<sup>13</sup>

Turning to the terrible event itself, one finds further clues regarding the woman's status and the Levite's character.

## The Night of Horror—the Nature of the Case

**B**y passing Jebus, then a non-Israelite town, over the suggestions of his servant, the Levite continues to Gibeah. The sun has set before they arrive and they sit in the open square of the city, planning to spend the night there unless someone takes them in. The one who offers them lodging has performed the

usual duties of a host when the men of Gibeah, characterized as "sons of Belial," surround the house and keep pounding on the door. This is the first indication of violence and force in the story. The second lies in their base order: "Bring out the man who came into your house so we may know him." The implications of sexual violence do not escape the host, who pleads, "Do not do so wickedly, my brothers"<sup>14</sup>—words that recall Lot's plea to the men of Sodom.<sup>15</sup> His continued pleadings—similar to those of Lot's—fall on deaf ears. Like Lot, he offers his daughter and the Levite's concubine as substitute victims, but unlike Lot's brief, "do to them as you want," the host of Gibeah bargains, "*Ravish them* and do to them what you want."<sup>16</sup>

Like the men of Sodom, the men of Gibeah refuse to bargain. The Levite then seizes his concubine and makes her go forth to them. Both verbs are significant. The first is used of the stronger vis-à-vis the weaker and here the stronger prevailing over the weaker. The second verb is used to describe divorce.<sup>17</sup> Thus, in a literary sense, it may be said that the Levite overpowers his concubine and "divorces" her to the mob which, in turn, rapes and brutalizes<sup>18</sup> her all night.

The next section of the story is perhaps the most pivotal of the entire episode. The description of the gang rape and torture takes but a brief sentence, albeit it lasted all night. Its brevity can be interpreted as crafted to dull the pain and horror of the abuse, but more likely, it was intended to emphasize the intensity of the tragedy. At this point the narrator relies on a typical Hebrew literary strategy of redundant and overdrawn detail to put the story in slow motion and thus heighten its poignancy.

They knew her, and abused her all night long *until the morning*.

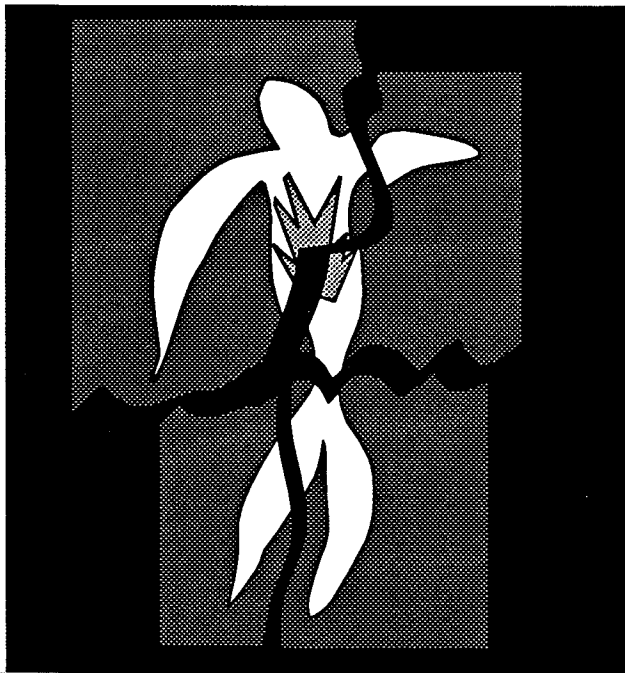
And they let her go *as dawn broke*.

Then the woman came *as morning appeared*

And she fell at the entrance of the man's house where her master was *until the light*.

The focus on dawn, morning, light is the device used to emphasize the tragedy of a long night, filled with rejection, torture, agony, brutality, hopelessness, and despair. First, she has been the pawn used by the man who came to speak tenderly to her; he throws her to the beasts to satisfy their lust for power and save himself. He "divorces" her and after the night ends, he is no longer her husband but her slave master. Secondly, she is the Raggedy Ann in the power of dogs who do to her whatever their lascivious hearts desire. Finally, at daybreak they let her go.<sup>19</sup>

The redundancy captures the first fingers of light, the defusing of the darkness that has hid the slinking away of her brutalizers. Slowly, objects take shape and form until a bent figure can be seen, shuffling painfully toward the house. The morning's shadows lift as she falls before the entrance. Inside is the man who should have been her caretaker but who thrust her out—outside—into the night and its power of Belial. When light fully comes, it focuses on the fallen ravished body, motionless and silent. The sun exposes<sup>20</sup> what night conceals: unspeakable torture by human beings without their humanity.



This is the only instance where the narrator's spotlight focuses on the woman herself. *Though she is the centerpiece of the story* (all events and issues affect her or are affected by her in some way) *she herself does not speak, nor does she behave on her own, until that fateful hour when men have ravished her, forsaken her, and let her go.* Then she acts out of the pain, despair, and brutalization of a victim. She stumbles and falls. Her only words are those mimed by one desperate action as she reaches both of her hands until her fingertips touch the threshold. The sun rises on her inert body, stretched out, hands pointed toward a closed door, in a plea that goes unheeded.

Here the mood of the story abruptly changes. From slow motion, the narrator moves in to the start of the day where everything is punctilious, determined by economic and familial needs. Here everything has its prescribed time and place in accordance with the rhythm of living things.<sup>21</sup>

And her master got up in the morning  
And he opened the door of the house  
And he went out to go on his way.

The rhythm of the three lines is almost uniform;<sup>22</sup> they achieve the cadence of an ass plodding steadily down the road. The Levite is about to resume his journey with no thought about the night before. An intrusive set of lines, interrupting the beat, form the peak of the story:

And behold, the woman, the concubine, was fallen  
in the entrance of the house and her hands were upon  
the threshold.

These words are meant to change the current of the story. They depict a scene which should have moved the hardest heart to pity. The sight of that once living human being, now brutalized, with hands stretched imploringly in the doorway, should have evoked a change in the Levite's rhythm.



The rhythm changes, but not with sorrowful overtones. Instead it quickens, with terse brevity:

And the Levite said, "Get up! Let's go!"

The explosive words jar the reader with their utter heartlessness; they also emphasize the tragedy, which to the Levite is but an intrusion on his plans. She has interrupted his rhythm, given him pause, rekindled his dormant conscience. Unappreciative of her forced sacrifice for him, he only wants her to fall into line behind him as he distances himself from the previous evening's horror. He uses command and expects action.

But there was no answer.

The narrator's emphasis on dawn and daylight seem intended to convey the impression that the concubine possibly dies needlessly. It is clear that the Levite did not get up till morning and that the concubine had to lie with her hands on the threshold until it was light. This, with other elements in the story,<sup>23</sup> casts suspicion on the Levite's role in her death. When she actually died is left unknown.

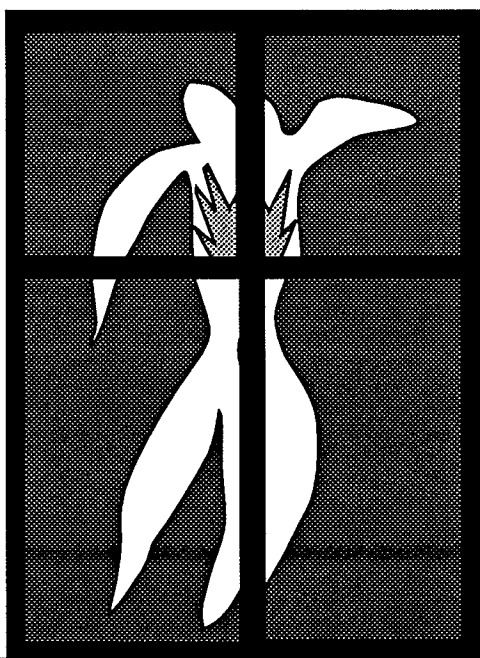
The words—"there was no answer"—also complicate the picture. One would expect instead, "she did not answer." Even more peculiar is the fact that "an answer" was not invoked but rather an action.

Though a play on words may be intended here,<sup>24</sup> it is more likely that the author chose this line to convey one of his main points: All of the victims in the tragedy (including those in the subsequent horrors) are silent. They serve no other purpose than that of voiceless pawns who have no will of their own. No less is true of this main character over whose life thousands of others will lose theirs. She has no voice. And there is no one to answer her mute call from the threshold where her hands rest.

The subsequent actions of the Levite raise further questions about his role in the murder of his concubine. When there is no answer, he puts her on his ass and resumes his journey home. Entering his house, he picks up *the* knife<sup>25</sup> and then proceeds to seize or prevail over his concubine,<sup>26</sup> divides her into 12 pieces (by her limbs) and sends her throughout all of the territories of Israel. The Hebrew narrative leaves open the possibility that this is the moment of her death.<sup>27</sup>

The Levite's dismembering is suggestive of several motifs. The concubine could be a sacrificial victim, if she is linked to the binding of Isaac.<sup>28</sup> She could be a reprobate devoted to total destruction (*cherem*), like Agag, whom Samuel hewed "in pieces before the Lord."<sup>29</sup> Or she could be the equivalent of a starkly slaughtered beast whose service and usefulness had ended only to become a vivid message calling Israel to war—just the purpose King Saul's oxen served when Jabesh-Gilead was besieged by the Ammonites.<sup>30</sup>

But perhaps the Levite intended symbolism with a different meaning attached. He had bypassed a non-Israelite town for the sake of being with his own people. He was a Levite,



his concubine of the tribe of Judah, his host an Ephraimite, and all were staying in a Benjaminite town. What could have been a harmonious inter-tribal social event was shattered by a dreadful night in which brutality, sexual torture, and death were enacted, not by the reprobate heathen, but by some of Israel's own. Though not herself responsible, the concubine was now a "whore" and thus a fitting symbol for what Israel had become to the Levite. Like Israel, her cohesiveness and unity were fiction, and thus, like Israel, she was to be hewn into 12 non-cohesive parts. She was sent to all tribes as a sign of warning of impending disaster to inter-tribal unity if action were not taken.<sup>31</sup>

## II. The War—Judgment and Guilt

The 12 body parts of the concubine have the effect desired by the Levite. "All the people of Israel" come out and present themselves "in the assembly of the people of God."<sup>32</sup> When the assembly demands an explanation from the Levite, his testimony does not follow events exactly as narrated.<sup>33</sup> Instead, he neatly crops the terrible tragedy with a few devices intended to explain the gravity of the incident. First, he embellishes the crime. The guilty are not evil scoundrels, "sons of Belial," but rather the town fathers, entrusted with its protection and just judgment. The crime committed is not one of sexual abuse and brutality<sup>34</sup> but an intent to murder a Levite who was innocently traveling through and had found lodging there for the night. They have risen up in attack against a man of sacred office, an act which necessitates response from all Israel.

Secondly, his statement—"they intended to kill me"—shifts the focus away from the lesser victim (she was only his slave girl) to himself, a member of the Levites. His goal seems

intentional: to avoid any personal implication in the woman's murder as well as to justify his extreme actions<sup>35</sup> in cutting up his concubine like a mere beast and sending her around the territory of Israel.

## The Crime

It is this testimony of the Levite—that the Gibeon town fathers plotted to kill a man of sacred office—that determines the rest of the narrative. To him, the crime was murder, yet his conclusion—"They have committed a wanton outrage"<sup>36</sup>—recalls the inhospitable actions of Nabal and suggest this as the crime.<sup>37</sup> Yet it must be asked if this crime would evoke such retaliation as depicted in chapter 20.

Whether the crime was the intended murder of one in sacred office, attempted sodomy (which the Levite does not mention) or the torturous death of the concubine (which would be of little consequence in ancient eyes),<sup>38</sup> there is still a question regarding the necessity of such complete retaliation. In the end, perhaps the 12 body parts themselves, circulating throughout the land, mobilizes the forces that bring about the tragedies that follow. Perhaps it is this, the final ravishment of the concubine, that leads to war against Benjamin.

Whatever the cause, and whatever the crime, the question of culpability is the beginning of a frightful descent downward to further acts of ravishment and violence.

## The War Justified as *Cherem*

In order to understand the extreme lengths to which Israelite warriors go, the intent of the war must be addressed. Putting aside suggestions of vengeance, mere punishment of the Gibeon scoundrels as inadequate,<sup>39</sup> the best proposal seems to be that the war was

considered a kind of purge of evil (*cherem*), in which Israel judged Benjamin worthy of devotion of total destruction. It is applied to Achan and his family who, because he clung to what was banned (*cherem*), was placed under a ban himself.<sup>40</sup> Though not used explicitly to denote the wholesale destruction of Benjaminite towns, the phrases employed to depict the war seem to be deliberately chosen from the laws of *cherem* in Deuteronomy 13. In both cases, the crime deserving the ban is committed by "certain base fellows"<sup>41</sup> in an Israelite city.<sup>42</sup> In accordance with *cherem* law, those devoted to destruction are put to death "by the edge of the sword"—including the cattle<sup>43</sup>—and the cities burnt, though the gathering of the spoil into the open plaza is not mentioned in the Judges account.<sup>44</sup> As in the law of *cherem* against the Canaanites in Deuteronomy 7:1-5, the Benjaminites were banned from marrying Israelite women.

Such a proposal provides an explanation for the extreme lengths to which the destruction of Benjaminite cities was carried. If the war was intended to purge Gibeah from evil by devoting the evildoers to destruction, Benjamin's refusal and advancement in defense would be indication that the tribe was clinging to *cherem* and thus was to be destroyed also.

Nevertheless, some mitigating factors must be considered. First, a *cherem*-war was only to be carried out in cases of idolatry, against the Canaanites, or against an Israelite town that was led into idolatry. There is no hint of any idolatrous practices involved in the story of the Levite's concubine, and there seems to be

a subtle application of the wording used in the story of Sodom—with its inhospitable actions toward the angels—to explain how Israel could have waged such a war in Judges 20.<sup>45</sup> Yet this appeal to the Sodom story contains several problems and cannot be solely justified.<sup>46</sup>

Secondly, the term *cherem* is not used in connection with the war against Benjamin at all, while it *is* applied, in verbal form, to the destruction of every male of Jabesh-Gilead, in Israel's attempt to recover virgin women to replenish the loss to the 600 survivors of

Benjamin.<sup>47</sup> Yet this usage assumes the earlier application of *cherem*: only virgin women from an Israelite city also under *cherem* could be given to the Benjaminites who were now banned from marrying members of the Israelite community.

Thirdly, the growing intensity of Israel's anguish throughout the warfare suggests that the tribes themselves questioned the justifi-

cation for such a war. Fourthly, this story seems to be the reverse of the Achan and Ai episodes, since loss of battle in the latter is due to holding onto an item devoted to destruction, whereas in the former the losses follow an attempt to purge out those apparently holding onto those under *cherem*. Israel's guilt stems from the fact that they have gone to war against fellow Israelites and have virtually devoted the entire tribe to destruction;<sup>48</sup> the comparison to Ai<sup>49</sup> suggests that *cherem* could not be legitimately applied to this case.

All of these difficulties contribute to a very important point: *the alignment to the laws of cherem was not the original reason for war*

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*The concubine could be a sacrificial victim, if she is linked to the binding of Isaac. She could be a reprobate devoted to total destruction (cherem), like Agag whom Samuel hewed "in pieces before the Lord." Or she could be the equivalent of a starkly slaughtered beast.*

*against Benjamin but was appealed to later in order to justify the means used to replenish the tribe as well as the destruction of Benjaminites towns.*

This is most significantly supported by a very glaring omission of the story's application of the Deuteronomic laws of *cherem*. Before destroying the cities, Israel was to "inquire and make search and ask diligently" to determine whether the report of idolatry was true.<sup>50</sup> Further evidence is supplied by Niditch,<sup>51</sup> who notes that in the case of the Joshua 22:10 to 34 story—potential for the carrying out of *cherem*—the law is followed exactly: (1) idolatry is the issue here; (2) inquiry is diligently made; and (3) a disastrous war is averted in consequence.

In the narrative of Judges 20, no such inquiry is made. Israel's armies advance with force of arms against Gibeah and demand that they hand over the men who committed the crime for punishment.<sup>52</sup> The Levite's testimony—colored as it is and hiding his own culpability in the case—is accepted without question. *Indeed the testimony of a single witness<sup>53</sup> is used to determine the fate of an entire city and ultimately of nearly an entire tribe.* No one raises a question regarding who the villains actually are. No one inquires into the role the Levite played in the rape and murder of his concubine. No one asks whether his later ravishment of her body was appropriate.

This failure of the story to align fully to the laws of *cherem* is pivotal to an understanding of the response of Benjamin. Both the use of force and implication of war override the

suggestion that justice was about to take place. Without investigation into the truth of the Levite's claims, it can be assumed that the tribe of Benjamin considered the actions of Israel's armies as extreme and even unjustified.<sup>54</sup>

One could, of course, hold the tribe of Benjamin fully responsible for the devastation that follows.<sup>55</sup> Had the tribe handed over the men, surely the cities would have been spared. Yet the case may not be that open-and-shut.

There is a problem regarding the identification of the guilty—were they town fathers or villains? The incident took place at night when visibility was poor and the brief encounter would not necessarily produce reasonable evidence for determining the criminals.<sup>56</sup> Thus, though one cannot assume innocence on the part of the Benjaminites, the weight of evidence points to greater culpability of the Levite and the woman's ravishers.

*The Levite comes out in those early judgment hours to find the concubine sprawled on the ground, her body resculptured by the horrors of bestiality and torture into cold cruciform. The soldiers grasp Jesus' arms to find them relaxed and nearly in place. He has already been crucified thousands of years ago.*

In the end, the attempts to align the story with the laws of *cherem*—though aiming to soften the horrors Israel inflicted on the tribe—leave the reader feeling somewhat deceived. And self-justifying deception is indeed one of the key implications of the story. The Levite colors his testimony in order to defend his actions toward his concubine. The tribe of Benjamin appears to rationalize that, since war seems imminent, they must fight rather than seek out the guilty for punishment. The horrors of extensive destruction seem exonerated by association with Deuteronomic injunctions of a holy purging. And finally, after the war, the people tearfully blame God for nearly extinguishing one of the 12 tribes.<sup>57</sup>

even though they did not originally seek his counsel as to whether a holy war was justified.

## The Redemption of Benjamin; The Institutionalization of Evil

The account of the war, with city after city burned and their inhabitants put to the sword, is tragic enough to leave the reader stunned, especially when it is learned that all females, male children, and elderly men have been killed.<sup>58</sup> Apart from the attempts at self-justification noted above, it is possible to view the story as a like reaction to the original crime. Parallel with the ravishment of the concubine and the subsequent dismemberment of her body is the war that, like a fire out of control, eventually ravishes town after town, dismembering the community of an entire tribe. The reluctance of God to grant Israel victory over Benjamin recalls the father's reluctance to let his daughter go with the Levite.

And the assault and abuse continue. Horrified at what "God" has done to the tribe of Benjamin, Israel sets out to create redemption. But due to the overriding desire to justify her previous actions and to act in harmony with them, the people redeem Benjamin by ravishing one more town—Jabesh-Gilead, which is placed under *cherem* due to a suddenly remembered oath—and preserving alive the 400 virgins found there to be handed over to the survivors of the mutilated tribe. Still, the reparation is incomplete. So Israel orders the remaining wifeless Benjaminite survivors to "lie-in-wait" and kidnap<sup>59</sup> the virgin women of Shiloh.<sup>60</sup> The Israelite justification for this last command is unclear.<sup>61</sup>

The redemption of Benjamin is created out of a form of the same crime as originally started the war. Thus the narrative ends where it begins.<sup>62</sup> In an attempt to "put away evil from Israel"<sup>63</sup> by means of destruction and force,

though justified as a *cherem* judgment, the tribes merely accomplish the perpetration and institutionalization of the original corruption they have tried to expunge.

## The Moral

Though attempting to justify the rapacious actions of the 11 tribes against Benjamin, the moralizer ends with an emphatic head-shaking conclusion. How could such inhospitable depravity occur in an Israelite town? And why didn't the Levite admit to the whole story? Why didn't the Benjaminites attempt to find the villains? And why did Israel react so violently—without questioning the Levite or making further inquiry—despite a reluctant assent from God? Why the ruthlessness, the total destruction? And finally, could anything really justify the destruction of Jabesh-Gilead and the kidnapping and rape of Shilohite women?

Did they not all—except the voiceless concubine—manifest the symptoms of brutality, ruthless unconcern, and violence?

But if one cannot justify such atrocities, perhaps one can explain them. And so the moralizer—as if picking up the earlier words of the Gibeon host, "Do what you want"<sup>64</sup>—concludes, "In those days there was no king, and everyone did what was right in their own eyes." Does this imply a plea for control and an overthrow of pluralism and ethical subjectivism? Perhaps. Yet the tensions in the narrative point to a more specific interpretation. Doing what is right in one's own eyes is not interpreting Torah's meaning for oneself, but rather, ignoring it to go one's own way or misinterpreting it to justify abuse of another.

And a king would not necessarily have prevented what happened. One of the main functions of ancient kings was to lead out in war.<sup>65</sup> In the case of Judges 19-21, 11 tribes of Israel went to war without a king (unless the

Levite plays this role). Inspired to unite by a violent message of tragedy and stark horror, Israel responded as one person. Here was not individual subjectivism or even cultural relativism, but collective wantonness excused as holy war against those judged to be immoral.

Ultimately, *all* the freely acting players in the story were guilty. *All* were wrong, though right in their own eyes. *And in the end, those most culpable may have been those who considered themselves most capable of purging evil from Israel.*

### III. The Adventist Story

From a canonical perspective, it might well be asked, "Should this dreadful narrative be a part of Scripture?" By itself, apart from a larger context, it has no redemptive value. Yet this study contends that its presence in the canon is not only justified but necessary. In order to appreciate redemption, *all* must be capable of facing the evil in their own story.<sup>66</sup>

#### Prerequisite to Redemption

Reading the bad in our salvation history is but the prerequisite to redemption, not redemption itself. And so the canon continues: *Our story reads on, and redemption comes at the end of the reading.* Were the moralizer's closing words the end of the biblical story, we would have to suppose that tamed violence and dictatorship are indeed the last word and thus that the institutionalization of the violent behaviors in the narrative is the cure. But the Scriptures do not end with Judges 21 or 1 Samuel 8. Beyond the monarchy, with its domesticated tyranny and its slaying of prophets who speak the truth; beyond the abuses of kingly power that led to further ravishment of women and child sacrifices; beyond the snuffing out of prophetic insight and the reigning of priests, we

come at last to the King of kings who wins the war with the beast *as a Lamb*.

He is the real threat to purgings of Israel, with his tolerance for the intolerant and the non-tolerated, with his preference for love and truth over against force and control, with his fearless insistence on new perceptions of Scripture and on behaviors that shake traditional foundations.

Eventually those who would purge evil from Israel gang up on him after dark and ravish his body all night long. No inquiry is raised as to whether the accusations against him are so. And he, like so many of the victims before him, is voiceless before their abuse. As morning begins to break (and the Levites can go to bed), the rabble (or city fathers?) order him to carry his cross, and he moves across the threshold of the city gate toward a bleak Golgotha. His hands slip from the crossbeams and he falls to the ground.

In the wee small hours of dawn, in that wretched town of Gibeah, part of his story was once paralleled, along with so many others. It is reminiscent of Abraham and Isaac, but no voice from heaven stays the hands of the ravishers or the Levite, or the hands of the mob and Roman soldiers. It recalls Lot in Sodom, but no angels intervene to smite the men of Gibeah or the men of Jerusalem with blindness. It favors the laws of *cherem*, except that no one consults God about the morality of their actions, nor do they inquire whether the Levite's indictment is completely true. And likewise, no one raises the question of whether they might be crucifying their innocent Creator atop Golgotha.

The Levite comes out in those early judgment hours to find the concubine sprawled on the ground, her body resculptured by the horrors of bestiality and torture into cold cruciform. The soldiers grasp Jesus' arms to find them relaxed and nearly in place. He has already been crucified thousands of years ago from Abel on. Her hands, imploringly touch-

ing the threshold, cry out a question that goes unheeded. His hands, nailed to a rough wooden cross-beam, embrace that eternal theodicy. The Levite's brusque command, "Get up! Let's go!" is met with silence. The mob's malevolent command, "If you are the Son of God, get off the cross!" is also met with silence.

No one answers. There is no answer.

*How can there be an answer when no one makes honest inquiry and investigation, nor scrutinizes their own hearts, but only judges the hearts of others?*

## Redemption

The longer story doesn't end until the silent Lamb hanging from the cross speaks. Unlike the completely voiceless victims in the narrative—the concubine, women, children, and elderly men—the One in whom our redemption is found does speak: "Forgive them, for they do not know what they are doing" (Luke 23:34, NRSV). Not a charge that everyone is doing what is right in their own eyes, but a compassionate plea that they are ignorant.

It is here that our Adventist story and our individual stories can begin anew. At the cross we meet the bad in our story—our ravishments of others' reputations, our judging and condemning, our rationalizations and croppings of our stories to justify unchristlike behavior, our curt orders and dismembering

of reasonable ideas, our refusals to pursue and tell the truth and to make honest inquiry into the rightness of our prejudices, our unwarranted acts of *cherem* and attempts at eliminating those who do not submit to our perception of righteousness—that have recrucified the real King once again.

When at last we discover redemption, we find that he offers us forgiveness and a true sense of sin and righteousness, a true view of himself and his kingdom. Only those who recognize the bad in their story can welcome the graciousness in his voice, obtain a new understanding heart, and perceive truth in new dimensions from the foot of the cross.

There a new story can begin for those who want it. Beyond race, tribalism, and purgings of evil, the nature of the Lamb can be ours and with that nature in our hearts, the tribes can become one. For in Christ there is no north or south, no Ephraim or Benjamin, no NAD or SAD. In Christ there is no east or west, no Jabesh-Gilead or Mizpah, no Centrist or West Coast theology. In Christ, there is no Jew or Greek, no Bethel or Shiloh, no Hutu or Tutsi. In Christ there is no bond or free, no master-Levite or slave-concubine, no ecclesiastical kings or oppressed members in Ethiopia. In Christ there is no male or female, despite the lot-casting of the tribes in the assembly to the Lord at Utrecht.

May Galatians 3:28—and not Judges 19 to 21—soon become the concluding chapter of the Adventist story.

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### NOTES AND REFERENCES

1. This observation, in regard to recent scholarship, is also made by Susan Niditch in "The 'Sodomite' Theme in Judges 19-20: Family, Community, and Social Disintegration," *Catholic Biblical Quarterly* 44 (1982): p. 365.

2. Notably Joseph Lewis, who collected the worst, morally speaking, of Bible stories into a book to demonstrate the immorality of the Bible in *The Bible Unmasked* (New York: Freethought Press, 1926).

3. These tensions are examined from an ideological, rather than historical, perspective with a focus on the

literary developments of the story.

4. Assuming the story's basic historicity and treating it seriously, not as absurd (see Stuart Lasine, "Guest and Host in Judges 19: Lot's Hospitality in an Inverted World," *Journal for the Study of the Old Testament* 29 [1984]: pp. 43-57), or as "tragicomic" (Robert G. Boling, *Judges; a New Translation With Introduction and Commentary* in *The Anchor Bible* [New York: Doubleday, 1975], pp. 27, 277).

5. Such an approach focuses on the creative endeavor, the narrative, as is consistent with careful use

of literary principles of interpretation. Admittedly, I have been influenced by the use of rhetorical analysis as done by Robert Alter, *The Art of Biblical Narrative* (New York: Basic Books, 1982).

6. Cf. Judges 19:27 with Exodus 21:7-11 and MAL A 41.

7. Septuagint or Greek translation of the Hebrew Bible.

8. Masoretic Text, the later official Hebrew Bible of the Middle Ages, but which is deemed to have a long tradition back to the time before Christ.

9. Boling, pp. 273,274.

10. The fact that the husband goes to speak tenderly to her (indicating a hostile attitude on her part) and the unlikely possibility that she would have returned to her father if she was indeed a prostitute.

11. Phyllis Trible, *Texts of Terror; Literary-Feminist Readings of Biblical Narratives* (Philadelphia: Fortress Press, 1984), p. 72.

12. Biblical references are the author's own translation unless otherwise noted.

13. Noted also by Susan Niditch, p. 370. In her view, the concubine is already dead; thus his words are all the more "crass." Cf. Boling, p. 274.

14. Judges 19:22, 23.

15. Genesis 19:7: The words are identical, though syntactical positioning varies.

16. Cf. Genesis 19:8; Judges 19:24.

17. Especially here when combined with the word *outside*. Cf. Ze'ev W. Falk, *Hebrew Law in Biblical Times; an Introduction* (Jerusalem: Wahrman Books, 1964), pp. 154,155.

18. Note Trible's rendering: "they tortured her" (p. 76).

19. Trible (p. 77) treats this section in much the same way.

20. The sun was viewed as the god of justice in the ancient Near East, in part, because of its exposure of evil deeds. Cf. Job 38:12-15 and Trible (p. 77) who notes the same.

21. Barry G. Webb notes: "The expression [i.e., the Levite 'got up'] is chilling in what it implies by its sheer ordinariness." *The Book of Judges; an Integrated Reading*, in *Journal for the Study of the Old Testament*, Supplement Series 46, p. 190.

22. In Hebrew, the rhythm is only a little less unvarying than it is in this English rendering.

23. See the full edition of this paper, read at the 1997 ASRS meeting in San Francisco, p. 11.

24. The word used by the Levite and the host for the ravishment of the concubine and the verb "to answer" are identical in root, though not in etymology.

25. Not just any knife. This terminology recalls Abraham's actions in the binding of Isaac (Genesis

22:10). Trible notes the same (p. 80).

26. Using the same verb and action employed for describing his seizure of her when he threw her out of the house to the rabble.

27. Trible's interpretation (p. 80); so also Webb, p. 91.

28. See note 19.

29. I Sam. 15:33

30. I Sam. 11:7; note the similar wording to that of Judges 19:29.

31. See Niditch, p. 371.

32. Judges 20:1, RSV.

33. A) Instead of "the men of Gibeah, base fellows," he refers to them as "the lords of Gibeah"; B) in the narrative, the men of Gibeah surround the house and demand to "know" the Levite, whereas according to the Levite, they rise up "against" him (signifying a premeditated attack) with intention to kill him; C) Without telling how he escaped or how the concubine ended up in their hands, he states the barest of facts: "They ravished my concubine and she dies;" D) He states that he then took his (dead) concubine and divided her into 12 pieces, and obvious attempt to soften his actions.

34. The issue here is not the degree of evil committed but rather just what that evil was and therefore what punishment it deserved.

35. See Webb, p. 191.

36. Judges 20:6, Cf. Boling, p. 284.

37. Niditch (pp. 367 and 371), among a number of scholars, proposes this.

38. Though Abraham did not wish to send Hagar away, this was because of her son Ishmael rather than because of solicitude for the slave herself (Genesis 21); Laban's daughters complain that they have been sold like slaves rather raised to war-pitch over the torture and demise of an unknown slave-girl/concubine.

39. See the full paper, p. 16.

40. Josh. 7:1ff.

41. RSV wording.

42. Deuteronomy 13:14 (13); Judges 19:22.

43. An action considered to be taken in Gibeah (Judges 20:48).

44. Deuteronomy 13:16 (15)-17(16); Judges 20:48.

45. For a full description of the similarities in wording between the two stories, see the original paper, pp. 5,7, and 17.

46. First the term for "abomination" is replaced by "evil" and "senselessness"; secondly, unlike the Sodom story where the whole town comes to molest the angels, the Levite was threatened only by the town's ruthless.

47. Judges 21:11.

48. This is signified by the stress on "our brothers, the Benjaminites" in Judges 20:23, 28; cf. 21:3.

49. C.F. Burney, *The Book of Judges With Introduction and Notes*, Harry M. Orlinsky, ed. (New York:



KTAV Publishing House, Inc., 1930), p. 455.

50. Deut. 13:15 (14). Even in the case of Sodom, God tells Abraham that he will go down himself and check out the reports to see "whether they have done *altogether* according to the outcry that has come up to me" (Genesis 18:21, RSV).

51. Niditch, pp. 374, 375.

52. Though their words convey the truth according to the narrative—not the coloring given by the Levite—this wording is necessary to align the episodes of war with the law of *cherem* in Deuteronomy 13.

53. Cf. the law of witness for capital crimes in Deuteronomy 17:6; the words in Judges 20:13—"and put away evil from Israel"—recalls the law of the witness in Deuteronomy 17:16.

54. For a discussion on the possibility of "divine endorsement," see the original paper, pages 20 and 21.

55. As does Niditch, pp. 371, 372.

56. The narrator makes it clear that the ravishers had departed before sunrise.

57. Judges 21:3, 15.

58. This is implied rather than stated in the narrative (Judges 21:7, 17, 18).

59. An action considered a capital crime in Exodus

21:16; cf. vss. 12-14. A number of scholars view it as rape. For example see J.A. Soggin, *Judges; a Commentary*, Old Testament Library, John Bowden, trans., Peter Ackroyd, *et al*, eds. (Philadelphia: Westminster Press, 1981), p. 298.

60. It is not clear whether Shiloh is to be understood as a Canaanite or Israelite town and thus not tied to *cherem*. Cf. Martin, p. 222.

61. The Hebrew wording is difficult and has net varied results.

62. Noted previously by Tribble, p. 83.

63. Judges 20:13, RSV.

64. Also the words of Deuteronomy 12:8-9; see Moshe Weinfeld, *Deuteronomy and the Deuteronomistic School* (Oxford: Clarendon Press, 1972), pp. 169, 170, and Tribble, p. 84.

65. For example, note the Samuel-Saul stories of 1 Samuel.

66. For much of the inspiration for the slant of this final section (and indeed the general direction of the entire paper), I am indebted to Richard Rice, "The Priority of the Particular: Adventist Theology Faces the 21st Century," presented at the 1996 Adventist Society for Religious Studies meeting in New Orleans.



# Zelophehad's Daughters in Kenya

An Adventist theologian shows how the Book of Numbers challenges the status of women in 20th-century Kenya.

by Mary Getui

CHRISTIANS COMPRISE 80 PERCENT OF THE POPULATION of Kenya, and the Bible is one of the most widely distributed books in the country. It remains a foreign book, far from Kenyans in time and context. One important part of the contemporary Kenyan context is that in this largely Christian country, women suffer injustices.

- In a funeral of a father of seven daughters, speaker after speaker lamented that it was most unfortunate that the man had left behind "no children."

- A woman car owner and her two male passengers had just parked the car and were walking away. A passerby who arrived soon after inquired from a group of children as to who had come out of the car and the response was "two people and a woman."

- During a wedding reception, the hall was

getting crowded and the master of ceremonies requested that the women and children vacate the space for the men.

- On being asked what their wives do, many men describe the housewife as "one who does nothing."

- A group of church women who had been invited for a women's day in a neighboring church were accompanied by a man. On arrival, the hosts asked the man to play the key role and sidelined the women.

- In a marketplace, a Catholic sister ordered a man to stop flogging his wife. The nun was ridiculed by other men and other women for being ignorant of the culture.

This article is an attempt to analyze the situation of women in Kenya in light of the story of Zelophehad's five daughters found in Numbers 27:1 to 11 and 36.

## Demanding Their Land

The Book of Numbers reflects the stress and uncertainty similar to life in Kenya

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today: both peoples are in exodus. In Kenya, the exodus is manifested in wars, unemployment, disease, and environmental degradation. In the unstable conditions prevailing during the Exodus and in the contemporary world, women are hit even harder. In the Israelite culture, women were not treated as equals.

The place of ancient Hebrew women is well expressed in the words of Evans: "In the Old Testament as a whole, woman after the fall is seen as secondary."<sup>1</sup> Zelophehad's daughters are victims of this situation, as is clearly seen in Numbers 26. A census takes place, land is divided, but these women do not figure simply because their father is dead and they have no brothers. No mention is made of their mother. What are the implications of being left out of a census today? A census is taken in order to know the size of the population; those who are left out are non-existent. The needs of the section of the population that is left out cannot be addressed, and like Zelophehad's daughters, they cannot be given any land.

Although they are left out of the census, Zelophehad's daughters are introduced by name: Mahlah, Noah, Hoglah, Milcah, and Tirzah. The meanings of their names are not of consequence, but the fact that they are named is. The identity of these daughters challenges us to realize that we are discussing real people and real issues that require and deserve attention. The daughters raise this issue themselves before the dignitaries of the land and a full congregation. They have no fear, but are bold and confident. They explain their cause clearly and without apologies. They are concerned that their father's name should not be done away from among his family simply because he had no son. These women stress that they may not be sons, but they are children of their father. They again state clearly what they would like done for them: to be given a possession of land that is distinctly theirs.

According to the Israelite norm, this possession should go to the brothers of their father. By making this request, the daughters are questioning culture, and are trying the patience of their father's brethren, who well know that daughters do not inherit land.

From the African perspective, land is also significant. Among the Kikuyu of Kenya, Kenyatta<sup>2</sup> has outlined the general attitude to land as being thus: Land is sacred. Out of it crops grow and the people are nurtured. Land is the burial place. Therein lie the ancestors whose spirits influence the lives of the living. People swear by the earth; hence it is a binding force. Land was used in an orderly and organized manner in a move to protect it. There were laws that governed the ownership of land. These sentiments on land are shared by other communities like the Maasai,<sup>3</sup> the Nandi,<sup>4</sup> Akamba,<sup>5</sup> and Abagusii.<sup>6</sup> Women, however, had no ownership rights over land. The case of the Maasai sums it up. Ole Sankan<sup>7</sup> says:

Ideally as soon as an old man realizes that he is about to die, he bequeaths his property among his sons . . . the eldest son inherits all his father's property . . . Therefore he divided the property . . . among his young brothers and step brothers. The youngest son inherits all his mother's property . . . (mainly gourds). Daughters do not inherit property.

Despite changes brought about by Christianity, education, and exposure to other cultures where women are downgraded less, ownership of land in Kenya has remained the domain of men. Daughters can hardly inherit. A single woman who would like to purchase land is treated with suspicion and can easily lose the deal to a less competitive male buyer. Some male landowners quip: "With who does she think she is going to discuss the issue of land? How can she be capable of purchasing land when she does not have a husband? She

had better ask her father or brother to strike the deal for her. Since when did women start owning land?" The few single women who have managed to purchase land are seen as odd. Their property draws comments: "You see that land? It belongs to a woman." The owners are described as "that woman owns land," implying that land ownership among women is something unusual.

If land is so significant, yet daughters cannot inherit it, let alone purchase it, then their full realization as persons is hindered. In many of the communities in Kenya, women have cultivation rights, but often only for subsistence purposes. Most of the commercial cultivation, such as cash crops like tea, coffee, or pyre-

thrum, remains in the hands of men. Women usually provide the labor, but men earn—and of course spend—the money. Women enjoy little, if any, of the fruits of their labor. Zelophehad's daughters also suffered as non-entities and non-inheritors of land, in line with the Hebrew culture of their time. The daughters of Africa suffer injustice in many other aspects of life. Limited or no education; career and employment opportunities; little or no representation in politics and policy-making forums; hurdles even in church and family; victims of female circumcision, early marriage, teenage pregnancy, numerous births, polygamy, wife inheritance, wife beating, and general poverty.

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## Addressing the American Academy of Religion

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The faces that stared back at us from the speakers' platform were different from those we usually encountered at professional meetings. The American Academy of Religion and the Society of Biblical Literature had seen to that. We were in Philadelphia for their annual convention. We heard papers from many of the scholars whose works we had long been studying: Marvin Pope, Martin Marty, Cornell West, Walter Brueggemann. We heard from contemporary artists whose work addressed the spiritual dimension of the arts. Toni Morrison described the challenge of depicting Paradise in a suffering community. All that was business as usual. The surprise was that we were about to hear some new voices.

In a bold move to ensure more inclusivity at the meetings, the Society of Biblical Literature had brought in 12 scholars from around the world to address the topic, "Reading the Bible as Women in Africa, Asia, and Latin America." These scholars were women. They were women of color. They were women of the two-thirds world. They had come to read the

Bible to us and tell us what they heard in its pages. We came to learn from them. Imagine our delight that one of these scholars was an Adventist.

Actually, we had met her the night before. We had been waiting for a meeting to begin, our name-tags with Walla Walla College prominently displayed on our coats, when she came up to us. "Are you Adventists?" she asked. To which we gave a startled, "Yes." "I am too," she replied. Our eyes did a quick dance between her face and her name tag. Mary Getui—Kenyatta University—Kenya, it said. We wondered what she was doing here. We didn't recognize the name. A student, perhaps? A new addition to the small but growing circle of Adventist women scholars in religion?

She introduced herself to us. She was on the faculty of Kenyatta University in the religious studies department, an established scholar with published articles to her credit. She was here as a guest of the society with an invitation to present a paper yet this week. We stood there staring at her and at one another. Why

had we never heard of her? Was it possible that an Adventist woman from Africa could attract the attention of an international scholarly society but remain invisible to her own church? Why did it take the Society of Biblical Literature to bring us together? "When are you presenting your paper?" we asked. We would be there. We wouldn't miss it.

We were there waiting when she got up to speak about the daughters of Zelophehad and the daughters of Africa. But before searching the text, in Numbers 27, for its meaning and applicability, Mary Getui told us of Kenya. We listened as she explained that 80 percent of the people are Christian, most of its leaders the products of mission schools. She traced the rich inheritance the missionaries had bequeathed to Kenya: a hope for the future, the Bible as a guide, a populace responsive to Christian principles.

Mary Getui then turned her gaze on the situation of women in her nation. She recounted their actual lived experience: few economic options, fewer rights, little educa-

The situation in Africa is even more disconcerting when many women accept their situation and hence contribute to the status quo. Culture has trained the women to accept what is. They do not question, they do not reflect critically on their experiences; indeed, many of them frown on anybody who suggests change.

The following episode may give a glimpse of how many of the women consider their situation. In a marketplace, a husband was flogging his wife. Many of the people went about their business as if nothing was happening. A few people commented that the woman ought to be taught a lesson, and others watched

with bemusement. It appears the flogging had been going on for a long time, and that it was a common, usual, and accepted occurrence. A Catholic sister arrived at the scene and was shocked at what was going on. She immediately ordered the man to stop. The reaction drew more attention than the flogging. A crowd gathered and as soon as they realized that the sister was implying that what the man was doing was wrong. Most of the women sneered at her, saying she was only a sister and therefore ignorant of the complexities of family life. She had no authority to interfere in a simple domestic dispute. She could probably not stand being a wife and a mother, and that is why she had escaped to a convent. She was

tion, and little respect. She told of husbands publicly beating their wives with no threat of community indignation or censure.

But she didn't stop there. She spoke of the church. She traced the ways in which the church supports the ongoing oppression and dehumanization of women in Kenya. She cited the benign neglect of church policies and told of church leaders who looked the other way while women suffered. She outlined ways in which the treatment of women is exempted from Christian relational mandates. Domestic affairs are treated as a cultural issue. The church chooses not to interfere. Mary Getui did not ask if Christianity was relevant to the people of Kenya. She maintained that it was foundational to their society. Her challenge was to the incomplete preaching of the gospel. Why, she asked, has she never heard the story of Zelophehad's daughters preached?

We sat and we listened as Mary Getui spoke, and we wondered, what kind of Christianity have we exported? Why hasn't the story of Zelophehad's daughters been preached? What has been omitted in the preaching of the Word? What

kind of Christianity excludes the treatment of women from its basic relational teachings? Where is the fullness of the gospel for women? Where is the radical transformation of all human relationships that the gospel ignites? Where is the gospel that turned the world upside down?

We reflected further on the relationship between our community lives in North America and the Christianity received in the rest of the world. What is the relationship between our own lack of integrity, our own failure to live fundamentally transformed lives, and the Christianity that turns a blind eye to the suffering of the women of Kenya? What needs to be set right in our own house, in our own space, to clarify the inclusive nature of the gospel? What needs to be changed so that we in North America do not continue to communicate a gospel that stops short of its full expression and power? How can we live a message that women, too, have a share in Israel? A message that clearly states that women, too, are our neighbors?

Mary Getui did not ask for us in North America to shape Christianity in Kenya. She is there, and she and her

brothers and sisters are working on that. But she does leave us with the challenge to examine the expression of Christianity in our local communities. We may need to examine our own fidelity to telling the full gospel story. We may need to pull away from comfortable and safe traditions that conform to our own culture. We may need to courageously declare to our own society that all our relationships, our structures, and our processes are informed by the gospel, whatever changes this may require.

We went to Philadelphia in November 1995, for professional enrichment, to advance our scholarship, and to network with other scholars. We had attended this meeting to hear the Bible from an international perspective and to support an Adventist colleague. All this was business as usual. The surprise was that when Mary Getui spoke, we heard the gospel.

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accused of being ignorant of her culture. It was further said that even if the flogging stopped, due to her intervention, she could not always be there to stop it. Besides, how could she stop such a common and accepted practice? The men made similar remarks and even advised the women to "educate" the sister on the norm. This story shows that both men and women contribute to the poor image of African woman. In many cases, the woman is not heard. She maintains silence, and hence continues to suffer in silence.

## Sisters Acting Together

It is in such a situation that Zelophehad's five daughters arise and say "No!" The reaction of the Hebrew women to injustice poses a challenge to the African woman. It is time that women raised their issues themselves, without waiting for men or looking for intermediaries. The collective and unified approach of Zelophehad's daughters is commendable. This echoes the adage "united we stand, divided we fall." Although women may not share similar concerns due to their social status, urban or rural background, ethnicity, culture, age, lifestyles, or marital status, they ought to support each other's cause. If it is one woman's



concern, it should be taken as all women's concern. These concerns should be raised at the highest level, because the redress often comes from or is sanctioned by those in authority and power.

Zelophehad's daughters summon women to serve as the voice of the people, as voices challenging injustice. There are many Zelophehad's daughters in the world, and indeed in Africa, who suffer injustice. They suffer from unemployment, genocide, child abuse, amassment of wealth by a few, corruption in high places, soaring prices, and lack of basic amenities, such as health services, decent shelter, and clean water. Indeed, women need to assert that they too are children in their own right, not simply children of their fathers, or wives of their husbands, or sisters of their brothers. Zelophehad's daughters indicate that women deserve to possess that which is distinctly theirs. African women do own personal effects, but they ought to be able to possess and own items of significance and value.

Today, formal education seems to be the key to better status in society. Women, therefore, ought to be accorded equal opportunities in learning institutions, in provision of facilities, in career openings, and in job opportunities. It is the practice in many African families to give priority to the male child even when the girl is older or performing better. Women should address this issue at a national level such that governments and other concerned bodies cater for the education of all in a free and fair atmosphere, and perhaps even make up for the persistent sidelining of women.

Zelophehad's brothers could not be expected to take up their nieces' request for possession. It would defy tradition (this comes up in Numbers 36) and deny them more inheritance. This, however, did not deter the women from making their desire known, and from asking for what they considered to be their right. This episode therefore could help

the African woman get out of her disadvantaged status.

The dignitaries and the congregation listened to Zelophehad's daughters. We need to listen to one another, and we need to listen to others, even when what they are saying is not in line with what we generally hold. The Catholic sister should have been listened to, despite the fact that what she was saying was contrary to popular belief. All those people who have issues to raise about women, and about injustice, should be listened to. It was Moses's willingness to listen that brought the women's cause before God.

God's reaction, "The daughters of Zelophehad speak right," is an indication that God harkens to His people. He supports that which is not in line with culture. God is therefore opposed to cultural inhibition that may hinder the growth of His people. The women's reaction made a national impact, for God commanded Moses to speak to all the children of Israel and explain the new policy. Once again, it is a challenge to governments and policy makers to give ear and emphasis to issues of concern. God spelled out the new policy clearly. There were no loopholes or room for misinterpretation. We have not overlooked the fact that there were conditions with regard to daughters inheriting—that it can only come about if there are no sons. In a way, this can be taken to mean that God does not totally disregard culture. From the above analysis it can be said that despite the difficulties of life for the Israelites and for women in particular, the message of Numbers 27:1 to 11 is that such a situation can and ought to be reversed; God favors such a reversal.

Zelophehad's daughters surface again in Numbers 36. But this time they are passive. It is Zelophehad's brethren who revisit the issue. As indicated earlier in the analysis of Numbers 27:4 and 7, the women wanted to share

possession of the land with their father's brothers and God granted their request. The brothers must have found it difficult to implement or adjust to this policy. It would reduce the brothers' share of the inheritance. It was against tradition for daughters to inherit land, and perhaps the reaction of the conservative community would intensify the brothers' sense of awkwardness. The brothers would also worry about what happens to the land when their nieces get married. It is important to note that the women feature only as background information. The major issue is that if the women marry, the possession may be passed on to others outside the "tribe." In this context, then, the land is much more valuable than the women.

The idea of subjugating women for selfish gain is a common occurrence in Kenya.

- A young husband dies and the brothers make life hard for the young widow. She is forced to leave in order that they may inherit their brother's land and other possessions. Sometimes the women's parents-in-law are party to the scheme.

- Among the Luo of Kenya, when a man dies, the community—especially the relatives—"invade" the house and make away with most, if not all of the property. The widow has to start from scratch. Often, the widow is part of



the inherited property. Widow inheritance has been defended for the reason that it provides the widow and her children with security, but why should people help themselves to property they have not worked for to the detriment of a widow?

- Many people consider that a couple's property is the man's. Indeed, a woman has come home from work to find the husband's young cousin reclining on the marital bed, and the woman's displeasure is interpreted as being too possessive of her husband's property. Among the Abagusii, regardless of the woman's social status and contribution to the material and general welfare of her immediate family, she is seen as "one who is fed by the man."

In a move to safeguard possession, Zelophehad's daughters are to marry within the family of their father. The Israelites had not been practicing this type of marriage. From the African perspective, this can be interpreted as incest—even marrying within the clan is forbidden. This biblical directive would not be acceptable in many of the African communities. Due to migration and urbanization, there are cases where cousins and other close relatives have married without the knowledge of parents. Some parents have had to insist that such marriages break up. Sometimes traditional cleansing rituals are employed to prevent evil from befalling the couple, the children, the clan, and the wider community.

Moses directs that Zelophehad's daughters are to marry whom they think best. That the women have freedom of choice may be taken as positive, but might this not be a way of making a bad situation appear not so bad after all? There are instances where women have taken government appointments and have been told that their situation has improved. Only 32 years after independence, Kenya has appointed its first woman minister to the

cabinet. The implication is that before this time, although women formed half of the population, only men have been making decisions on women's issues. There are few women who stand for elections, mainly because most communities believe that women should not hold positions of authority.

It is peculiar that in Numbers 36 the voices of Zelophehad's daughters remain silent. The boldness displayed in Numbers 27:1 to 11 does not persist. Did Zelophehad's brothers not allow them a say, or could it be that once they overcame the possession saga, the sisters relaxed and became content? It may happen that contentment cuts one away from further action. Women should not be content, nor should they allow themselves to be silenced. They have an obligation constantly and persistently say "No" to injustice. When they do so, their voices should be broadcast for all to hear. This will set minds thinking, and perhaps even cause disturbance. Gradually, a change of attitude toward women may occur.

In Numbers 36, God's voice is also silent. It is through his servant Moses that messages are passed. Could it be that Moses spoke on behalf of God and so God could have given a different answer, an answer more favorable to the sisters if he himself had responded?

It is intriguing that the issue of women seems to feature so prominently in the Exodus story. It is unfortunate that, since biblical times, women have so often been subjugated. Not only they have been hurt, but their families and society as a whole. Once the mistreatment of women is remedied, not only will they benefit, but society in general. Women's issues should be raised in an attempt to make the world a better place for all creation. Women should raise issues that touch on the rights of others, that is men and children, and these others should also raise women's issues. In short, all should be concerned about the good of all.



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## One Adventist in Congress Supports Tobacco Control; All Three Take Tobacco Money

by Alita Byrd

All three Seventh-day Adventist members of the U.S. House of Representatives accept money from tobacco companies. One, Sheila Jackson Lee (D-TX), actively supports tobacco-control legislation. Although 114 out of 432 House representatives do not receive any money from tobacco companies, the Adventist representatives have received donations from such companies as RJR Nabisco, Brown & Williamson, and Philip Morris. All of the Seventh-day Adventist House members do say they support attempts to stop young people from smoking.

Sheila Jackson Lee is co-sponsor of a tough tobacco control bill (H. R. 3868). The bipartisan NO Tobacco for Kids Act that she supports had at least 100 co-sponsors as of July 1998. The proposed bill is comprehensive, containing such provisions as: A price increase of \$1.50 per pack of cigarettes over three years with funds raised going to tobacco control efforts and reduction of the national debt; validation of FDA authority to regulate tobacco products as a drug or device; smoking prevention and education initiatives; youth reduction goals for tobacco companies to reduce tobacco use by children by 33 percent in three years, 50 percent in five years, and 80 percent in 10 years; the establishment of a Tobacco Accountability Board to report on the tobacco industry; and other measures.

### Sheila Jackson Lee (D-TX)

The Seventh-day Adventist representative who already supports this tobacco-control bill, Sheila Jackson Lee, represents the 18th district of Texas. Jackson Lee has been a Democratic member of the House only since 1994. She is a member of the Bellfort Seventh-day Adventist Church in Houston and she has given speeches at numerous Adventist institutions around the country. Endorsed by Barbara Jordan in a Democratic primary election, Jackson Lee was elected in the general election to occupy Jordan's seat in the House. Upon arriving in the House of Representatives, Jackson Lee was elected president of the Democratic freshmen class. She has served on numerous committees, including the House Judiciary Committee and the Committee on Science. Jackson Lee is also the founder of the Congressional Children's Caucus.

In 1994, Jackson Lee accepted a \$500 contribution from RJR Nabisco. Out of 30 Texas representatives, nine took no money whatsoever from tobacco companies. Of those who did accept tobacco money, Jackson Lee took the least.

A spokesperson for Jackson Lee said she does not solicit money from tobacco companies. She is serious about reducing teenage smoking

*Three Adventists serve in the U.S. Congress. One strongly supports tobacco control legislation; all three have taken tobacco contributions.*

and is "for some form of tobacco legislation, though it is a huge and complex [issue] and may take a long time." Jackson Lee is the only Seventh-day Adventist to be a co-sponsor of H.R. 3868, the bill to reduce teen smoking already introduced in this session of Congress.

## Roscoe G. Bartlett (R-MD)

Roscoe G. Bartlett, Jr., a third-term Republican House delegate from Maryland's sixth district elected in 1992, is an active, tithe-paying member of the Frederick Seventh-day Adventist Church. He is the congregation's religious liberty director. Bartlett graduated from Columbia Union College in Takoma Park, Maryland, where he later taught science. His 10 children attended Adventist schools. In the Congress, Bartlett serves on the National Security Committee, Small Business Committee, and Science Committee.

From 1994 to 1996, Bartlett received \$1,500 from RJR Nabisco. Out of eight Maryland representatives, he accepted the next-to-least amount.

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*Alita Byrd, a graduate of Columbia Union College, is Spectrum's editorial assistant. She recently served an internship at the Washingtonian magazine.*

Bartlett wants to make it difficult for teenagers to try a product that is "absolutely unhealthy." According to a spokesperson, he is "definitely for measures which limit access to tobacco for minors and limit exposure of information to teens that would entice them to use a dangerous product." Bartlett supports advertising restrictions, carefully enforced age limits for buying tobacco, including ID checks and the elimination of cigarettes in vending machines.

Bartlett, a believer in limited federal government, is philosophically opposed to the government's right to tax. However, Bartlett is open to considering a tax increase on tobacco, as long as there is a corresponding tax decrease for those likely to pay the increased price of cigarettes. He has also historically opposed subsidies for tobacco farmers.

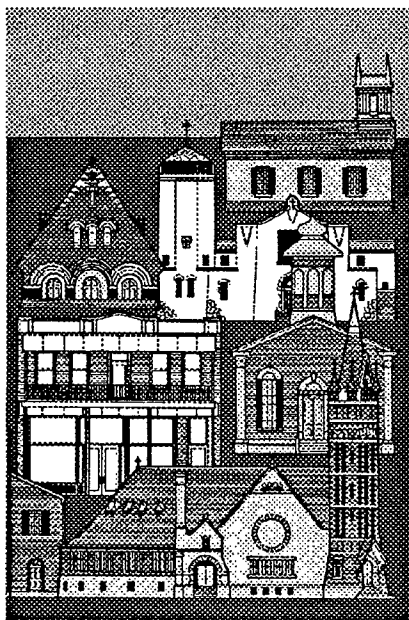
## Bob Stump (R-AZ)

The longest-serving Adventist in the House of Representatives is Bob Stump, an 11-term Republican representative from the third congressional district of Arizona. First elected in 1976, Stump is a member of the Glendale Seventh-day Adventist Church, outside Phoenix. His children attended Advent-

ist schools, and all three graduated from Loma Linda University, two becoming board-certified anesthesiologists, and one a nurse anesthetist. Stump serves as chairman of the House Veterans' Affairs Committee and as vice chairman of the National Security Committee.

According to Common Cause, a congressional watch organization, Stump received more tobacco money than the average congressperson. From 1988 to 1995, Stump received \$14,000 from tobacco companies, including Philip Morris Companies Inc., RJR Nabisco Inc., Brown & Williamson Tobacco, Loews Corporation, and the Tobacco Institute. The average tobacco PAC contributions received by current members of the House from 1987 to 1997 was \$11,900.

Stump defends his decision to take tobacco money, calling tobacco "a legitimate business in the South and different areas. . . . I support tobacco farmers." He will "not support the horrendous tax increase on cigarettes for any reason . . . because it is just a means of additional revenue—it is money-grabbing." Stump also does not fully agree with restrictions on tobacco advertising: "I believe when it is looked into more we will find it is unconstitutional." Stump says he will support any attempt to stop young people from smoking.



## Did Alita Byrd Espouse Congregationalism That Causes Pain and Disillusionment?

Either Alita Byrd did not talk to anyone with an alternative view of the happenings she reports, or she censored out any such opinions. In either case, it is hardly objective or even honest reporting! It results in the facts of the cases being blatantly wrong in some cases, omitted in others, and misrepresented in still others. It amazes me that *Spectrum* rushed such shoddy work into publication without at least a cursory check of the facts! It calls into question editorial bias, diligence, and expertise.

Let me mention just a few of the items in question:

1. First of all, Ms. Byrd chooses to omit the earlier attempts at congregationalism that have had time to bear their fruit (or more accurately, lack of it) and only includes the projects that are too new to have any meaningful track record. How objective is that? How honest? About six years ago, Pastor Dave Snyder, of the New Life Celebration Seventh-day Adventist Church in Portland, Oregon, left/was terminated under similar circumstances to Bob Bretsch, taking with him several hundred members. The experience has been tragic, and there is little left

of the venture but heartache. It destroyed many lives, and drastically hurt a congregation. But Ms. Byrd would want to omit that story, because it is contrary to the scenario she seems to want to encourage. It is of more than passing interest that Snyder is the father-in-law of Chad McComas, and has family ties to others Chad refers to as having been terminated, as reported in Byrd's article.

2. In the Sunnyside story, Bob Bretsch actually lost his church before the conference intervened. If Alita had talked to any of the concerned "Group of 60" she would have come much closer to the truth, and been halfway objective and accurate. She would have heard things like the following: Bretsch had lost the confidence of his members so seriously that the church operating budget was losing more than \$12,000 per month for the last six months of his tenure, specifically a total of \$73,000. And Bretsch could not turn it around, because he had alienated so much of the congregation and split the church. The previous year, they had to take a special emergency offering in December to try to balance the accounts, and

*An Oregon pastor didn't like the report on independent congregations; the Potomac Conference president did.*

raised \$100,000. But still came up short!

Byrd says the tithe increased every year Bretsch was pastor there. The truth is that the tithe of the church declined more than half the years he was pastor, contrary to her report. The specific figures (rounded): for 1995, \$1,218,000; for 1996, \$1,057,000; for 1997, \$943,000. The attendance figures she quoted are also contradicted by the majority of the members.

She quotes Bretsch, saying that the "Group of 60" used the political resources available to them to undermine what the will of the church was." Fact: the top six "vote getters" for the last nominating committee were out of the "concerned group." It seems the truth was that the will of the majority was in disagreement with Bretsch.

The "Group of 60" questioned Bretsch's tithing, and then the conference took up the issue. In fact, the conference was questioning Bretsch's tithing before the "Group of 60" even knew about it. Byrd implies that Bretsch was paying a tithe, but just a lower amount on his net, rather than gross income. By his own explanation, he deducted his living expenses, as well as the IRS deductibles, thus arriving, apparently, at a negative net income, or nearly so. The year's tithe sent to Montana was only \$600. And other years record no tithe of any kind! And in his Sabbath morning message explaining all this to the church, he offered no apology and did not suggest he had given one to the conference brethren or the committee. He had told the brethren many months earlier, when first confronted with his delinquency, that he would reform, but he did not and thus lost the confidence of the conference leaders. So, in the end, he had no credibility with the conference or enough of his congregation to make it work. This had already been documented

in an article in *Adventist Today*, which I would have thought Byrd would read, in researching her report.

The attendance figures for the Bridge City congregation are wildly exaggerated! Those attending there have reported as few as 58 one Sabbath and 87 another. They say a good Sabbath is around 250. In the spring of 1998 they have reached above 300 only once or twice. The figures Byrd cited happened only once or twice.

As I said, these are the reports you will hear if you ask a few questions of the people who stayed at Sunnyside, and some even who attend Bridge City some of the time. The only conclusion one can come to is that Byrd had an agenda of her own, and she did not want to hear the other side!

She had one good line in the second case of Medford: She says that, "For McComas, the most important issues were control, money, and power." Yes, indeed! In all these cases, the real issue is an unwillingness to be accountable to anyone not of your own choosing. There is a reason why God gave organization. Loose cannons, doing their own thing, by their own rules, always lead to anarchy. It is anarchy! Add to that, the greed to control all the money, not being willing to support the world work, the global mission of the church, as given by Jesus himself, and you have the formula for the "congregational trend."

This will bear its own fruit, as it always has in every previous case. Rebels think they have found what they want when they leave the organization, but they soon discover they can't get along with one another either! They split again and again. Every rebel wants to be in control himself. When he discovers he has only exchanged one controlling authority for another, he rebels again. This trait of character is a self-destructive flaw that has a predictable "half-life."

There is yet another reason independent congregations of Sabbathkeepers do not prosper very long. One does not find enough motivation to be as unique as one has to be, as a Sabbathkeeper, without the vision and conviction of a world-wide mission, such as we have in the three angels' messages of Revelation 14. And it is not really very rational to think that one independent congregation can lay claim to that calling! Any such ephemeral claim they might make rings hollow. Why not be a part of the movement that is actually getting that done? The answer is that their motives are too selfish—they must control the money and the power, or they won't stay in the game.

Ms. Byrd's obvious cheerleading for the rebels is thoughtless in still one other regard. How can she be so approving of what has really taken place, when you stop to analyze it? Here are men who eagerly believed in the organization when it was to their advantage—when they needed financial assistance with their education, when the organization placed them in ready-made congregations, moved them, when they needed fresh starts in new congregations as inexperienced young preachers. They were glad then that the church pays all the pastors equitably, whether their congregation is large or small, by sharing the giving of larger centers with the smaller ones. But when they finally graduate to a large or wealthy congregation, they usurp it with all its assets they can gather to themselves—including an income stream others have labored for years to create, and make off with it like a bandit! In the business world, it would be called fraud for a manager to steal the business his company had entrusted to his leadership! For this reason, they won't hire a manager until he signs a "non-compete" document. Have we come to the place where we need to get such a legal docu-

ment from pastors who go to large congregations? It is one thing to believe in congregationalism from the start—to pay for your own education, for your own Doctor of Ministry degree, go out and start a congregation from scratch. That would be honorable. But these who find their faith in this ecclesiastical model, only when they have a congregation large enough or rich enough to be financially viable, that

is interesting indeed! And they are the only ones getting these convictions! Funny that Ms. Byrd doesn't find "this trend" very popular among pastors of small or poor congregations! And all this says nothing yet of all the damage done to a community of faith. All the hurt and pain and disillusionment. All the torn friendships and family ties. It is a heartless spectacle! I know, because I am pastoring, right now, just such a

devastated church.

Someone needs to take a more honest look at the ethics and the human cost of these congregational case histories. *Spectrum* needs to put more thought into the consequences of espousing causes like this.

Elden Walter, Pastor  
New Life Celebration Church  
Milwaukie, Oregon

## Don't Blame the Messenger

The process of losing most of the members in an innovative and vibrant congregation was a sad experience. The fact that Richard Fredericks has been a friend for many years made the separation from the denomination even more traumatic. I had been hopeful that separation would have allowed a breathing space for those who want more freedom than policy now allows to stay "closely aligned" with Adventism.

I was anxious to see how Alita Byrd would handle her report about the Damascus Road Community Church (DRCC) and other newly independent congregations, and their split from our denomination. The personal loss that I feel because my "separated friends" are now seeming to distance themselves from their roots is not her fault. Alita was factual and accu-

rate. The article tells the story as it happened. I could not have written it better myself. My thanks goes to Alita for a balanced and fair report of what was a painful experience for many of us.

My eternal optimism still clings to the hope that the day of coming together can still happen. Richard [Fredericks] and Clay [Peck] under-

stand the gospel clearly. One day I hope they will again see value in the wide spectrum of Adventist theology. One day I hope all of us can dialogue about ways we can again come together.

Herbert H. Broeckel, President  
Potomac Conference of  
Seventh-day Adventists

## Alita Byrd Responds

I appreciate the pain that Adventists feel; I do not celebrate the events that led to it. In reporting those events and others that preceded an unprecedented number of congregations leaving the denomination in North America in one year, my approach was the same in Portland, Oregon, as in the Potomac Conference. I talked to many people with diverse views and tried to be

accurate and fair. Some clearly think I achieved it, others do not. Certainly, more detailed information from informed readers are always welcome. What would have been most misleading would have been to ignore this development entirely.

Alita Byrd  
*Spectrum*  
Takoma Park, Maryland

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