

**INTRODUCTION**

**CONFERENCE ON THE FIRST AMENDMENT AND  
GOVERNMENT SUPPORT FOR RELIGION AND  
RELIGIOUS INSTITUTIONS**

Philadelphia, Pennsylvania  
October 22, 1999

**WELCOMING REMARKS BY**

*Charles W. Mooney, Jr.* \*  
*David B. Pudlin* \*\*  
*Howard P. Berkowitz* \*\*\*

**MR. MOONEY:**

Good morning. Welcome to the Penn Law School.<sup>1</sup> My name is Chuck Mooney. I am the Interim Dean. For many of you, welcome also to Philadelphia. This is a good place to have a conference on constitutional law, for obvious reasons, and especially as the University of Pennsylvania<sup>2</sup> reaches out to find ways to be partners with the National Constitution Center.<sup>3</sup> As Interim Dean, I am becoming quite accustomed to the

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\* At the time of the conference, Mr. Mooney served as the Interim Dean at the University of Pennsylvania School of Law. To view Mr. Mooney's picture and educational background, visit *Faculty of The Law School at the University of Pennsylvania* (visited Apr. 16, 2000) <<http://www.law.upenn.edu/cfdocs/faculty/facultySearchAction.cfm?searchStart=1&searchString=cmooney>>.

On March 6, 2000 Michael A. Fitts was named as Mr. Mooney's successor. Visit Office of University Relations, *Penn Law Announces New Dean* (visited Apr. 16, 2000) <<http://www.law.upenn.edu/dean/press.html>>.

\*\* Mr. Pudlin serves as the Chair of the Pennsylvania Metropolitan Philadelphia Board of the Anti-Defamation League ["ADL"]. He is also the President of the law firm of Hangley Aronchik Segal & Pudlin, P.C.

\*\*\* Mr. Berkowitz serves as the National Chairman of the Anti-Defamation League. Visit Anti-Defamation League, *ADL, the world's leading organization to fight anti-Semitism, hatred, prejudice and bigotry* (visited Apr. 16, 2000) <<http://www.adl.org/>>.

<sup>1</sup> Visit *University of Pennsylvania Law School* (visited Apr. 16, 2000) <<http://www.law.upenn.edu/>>.

<sup>2</sup> Visit University of Pennsylvania, *Welcome to the University of Pennsylvania* (visited Apr. 16, 2000) <<http://www.upenn.edu/>>.

<sup>3</sup> The National Constitution Center ["NCC"] "was established by Congress through the Constitution Heritage Act of 1988, as an independent, nonpartisan, nonprofit organization. NCC was established to increase awareness and understanding of the US Constitution, the Constitution's history, and the Constitution's relevance to our daily lives so that all of us - "We the People" - will better understand and

rewarding task of welcoming guests to the law school at the many events that we host. I owe a special debt to our Dean for a decade, Colin Diver,<sup>4</sup> who will be a moderator of roundtable discussions on court holdings this afternoon. Last November, Colin stepped out, not down, of the deanship to assume the Charles Heimbald Professorship of Law and Economics. So far, all the happy events that I have had the opportunity to open and welcome were established during Colin's watch, and I thank him very much.

When I met with Elizabeth Coleman<sup>5</sup> a few weeks ago, I took my first look at this program, and who the participants would be, and what would be covered. I must say, my jaw literally dropped. What a great program, what an outstanding group of speakers, and what a timely topic as we face the increasing privatization of social services and education. In that connection, I think we have all been a part of discussions of both traditional and nontraditional roles for religious groups in social services and education. At Penn Law School, we view ourselves as "the leadership law school." We aspire to enhance this leadership role in interdisciplinary scholarship and teaching. In addition, I think the law school's partnership, in particular our Center on Professionalism,<sup>6</sup> with the Anti-Defamation League ["ADL"] in this program, is a perfect example of our efforts to reach out to the world beyond the academic world.

If you have not caught on yet, one thing I enjoy doing is bragging about Pennsylvania and the Penn Law School. I will note as well that I counted nine of the speakers and the panelists who have Penn affiliations, including three who are overseers. Again, I welcome you and trust that your day will be both enjoyable and rewarding.

I now have the task of telling you a little about Continuing Legal Education ["CLE"].<sup>7</sup> Those of you who are not participating in Continuing Legal Education credit can take a look at your paper for a couple of minutes. If you have any questions, please inquire at the registration desk during breaks.

There are several announcements. First, you should all have these materials in a folder before you. For Pennsylvania CLE credit, there is a small white attendance card in your materials. You have to complete this and turn it in with the evaluation form when you leave the program. If you leave before four o'clock, you will get credit for the portion that you attended. New York licensed lawyers<sup>8</sup> need to pick up a special attendance certificate at the end of the program. Information for other jurisdictions can

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exercise our rights and our responsibilities." National Constitution Center, *National Constitutional Center* (visited Apr. 16, 2000) <<http://www.constitutioncenter.org>>.

<sup>4</sup> Colin S. Diver is the Charles A. Heimbald, Jr. Professor of Law at the University of Pennsylvania School of Law.

<sup>5</sup> Elizabeth J. Coleman is the Director of the ADL Civil Rights Division.

<sup>6</sup> The Center on Professionalism at the University of Pennsylvania Law School examines ethics and professional conduct and their implications in the field of law.

<sup>7</sup> Continuing Legal Education ["CLE"] is post-Bar-admission legal work. Although the American Law Institute, in conjunction with the American Bar Association, offers CLE courses, individual states also offer CLE courses. Visit *ALI-ABA* (visited Apr. 16, 2000) <<http://www.ali-aba.org/>>.

<sup>8</sup> For general information about the New York State Bar Association and its CLE program, visit *The New York State Bar Association* (visited Apr. 16, 2000) <<http://www-1.nysba2.org/>>.

be found at the registration desk. If you attend the program for the entire day, you will receive five hours of Pennsylvania CLE Substantive Law credit. If you attend less, you will receive less. The schedule is in your folder. At lunchtime, there will be boxed lunches available in the area of the law school that is to your right as you leave the room. Finally, the Pennsylvania CLE Board requires that I inform you that no credit will be given for time spent outside the classroom. Not exactly counter-intuitive, but . . .

I now have the pleasure of introducing one of our own, David Pudlin, of the Penn Law Class of 1974. I must put in a plug as well for David's wife Helen, who is also a Penn Law grad and a member of our Board of Overseers.

David chairs the Pennsylvania Metropolitan Philadelphia Board of the Anti-Defamation League, and he is President and shareholder of the firm of Hangley Aronchik Segal & Pudlin. He specializes in tax law, business law, and estate planning. David has been very active in both professional and community service, holding many positions of leadership with the Philadelphia Bar Association.<sup>9</sup>

Before assuming the Chair of the Metropolitan Board of the ADL, David served as Vice-Chair and Director, as well as chairing the development committee. He was the Chair and member of the squash team for the 1997 World Maccabiah Games<sup>10</sup> and was a member of the team for the 1989 games. There is a lot more, but I think you are anxious to hear from David and to get on with the program. So without more, David Pudlin.

(Applause.)

MR. PUDLIN:

Thank you, Dean Mooney. I spent three wonderful years at this institution; in fact, many hours were spent in this room. I am always happy to return, particularly for reasons that do not relate to fundraising. So, again, I am happy to be here.

On behalf of the Philadelphia Board of the ADL, I would like to welcome everyone to the conference today. We are very excited about this event. We have drawn a wide range of speakers from across the country. It is a very distinguished panel, and I am sure you will enjoy it. So, welcome. We are pleased you can be with us.

I also would like to thank Penn Law School for co-sponsoring the conference with the ADL. This is not our first co-sponsorship with Penn Law. We are very pleased to continue this relationship, and we hope we can present programs in the future with the cooperation of Penn.

I also want to thank the Penn Law School staff and the national and local staff of the ADL for making the conference such a success. There is a lot of work that went into this. I think as shown by the turnout today, a wonderful program was put together that attracted so many of you. In fact, we had to turn away people. We are sold out.

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<sup>9</sup> For more information about the Philadelphia Bar Association, visit Philadelphia Bar Association, *Philadelphia Bar Association* (visited Apr. 16, 2000) <<http://www.philabar.org>>.

<sup>10</sup> Maccabi USA/Sports for Israel is the sponsor of the U.S. Team to the World Maccabiah Games in Israel. For more information about this event, visit *Maccabi USA/Sports for Israel* (visited Apr. 16, 2000) <<http://www.maccabiusa.com/>>.

Finally, I would like to thank Bill Slaughter and the Goldsmith Foundation for its generous support, which made this conference possible.<sup>11</sup> Bill is in the room somewhere, earning his CLE credit. Thank you for your generosity and for being here.

There are many distinguished people in the room, and I apologize for not introducing you to them. I would be spending the next hour and a half identifying people. So, for all of our distinguished guests, thank you for coming.

I have been asked to mention that this conference is going to be covered in a new online publication, the Rutgers Journal of Law and Religion.<sup>12</sup> It is a brand new publication that will be coming out in the spring. In the first issue, if you call online services issues, this conference will be featured. So look for that on the Internet.

Now, it is with great pleasure that I would like to introduce Howard Berkowitz to you. Howard is National Chairman of the ADL, and it is always a pleasure for us when he comes down to Philadelphia to participate in our events. Howard is a graduate of Wharton undergrad.<sup>13</sup> I have been told he was a star wrestler there. We know he has to wrestle with many difficult issues as the National Chairman of the ADL, and he certainly got his start on this campus.

Howard is a long-time ADL leader with a broad range of experience. He served as Chairman of the ADL National Executive Committee and was actively involved in all aspects of the ADL's work. Howard has been a central figure in advancing the League's efforts to fight anti-Semitism, racism, and prejudice. He is a strong proponent of educational programming to promote tolerance and understanding, and he is dedicated to advancing civil rights and safeguarding the separation of church and state.

Internationally, Howard has regularly conferred with elected officials and community leaders here and abroad. He has consulted in Turkey, Latvia, Lithuania, Austria, Switzerland, Israel, Egypt, Jordan, et cetera. He has circled the globe many times on behalf of the ADL.

Professionally, Howard is the founder and managing partner of HPB Associates, which is a private investment fund established in 1979. Prior to that, he was the managing partner of Steinhart, Fine, Berkowitz & Company in New York. After he graduated from the Wharton School, University of Pennsylvania, he received an MBA with distinction from New York University. Also, Howard is actively involved in community activities beyond the ADL. He is a very busy man, and we are so pleased that he could take the time to come here today.

So, Howard.

(Applause.)

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<sup>11</sup> William A. Slaughter is a member of the law firm of Ballard Spahr Andrews & Ingersoll, LLP and director of the Horace W. Goldsmith Foundation.

<sup>12</sup> RUTGERS J. L. & RELIGION, *Welcome to the Rutgers Journal of Law & Religion* (visited Apr. 17, 2000) <<http://www-camlaw.rutgers.edu/publications/law-religion/>>.

<sup>13</sup> The Wharton School of the University of Pennsylvania was founded in 1881 as the nation's first collegiate business school. The Wharton School awards both undergraduate and graduate degrees. Visit The Wharton School of the University of Pennsylvania, *The Wharton School of the University of Pennsylvania* (last modified Apr. 17, 2000) <<http://www.wharton.upenn.edu>>.

MR. BERKOWITZ:

Thank you, David, very much. As David told you, I am Howard Berkowitz. I am the National Chairman of the Anti-Defamation League.

Before we get started, I just want to thank a few people. This conference was an idea that I had about a year and a half ago, that this conference would really frame the debate that is going on in our country today. It was executed and put forth by Elizabeth Coleman and Dick Glovsky.<sup>14</sup> You will hear from them later. I really think that this is an event from which all of us will be able to learn so much.

Before I go on, though, I would like to introduce you to Glenn Tobias,<sup>15</sup> who is the Chairman of our National Executive Committee. Glenn is sitting in the front row. I am not sure he did that when he was in law school here, but he is sitting there today because he does not think anyone is going to call on him.

MR. TOBIAS:

This is the first time I sat here.

MR. BERKOWITZ:

As a Jewish civil rights organization, dedicated to fighting anti-Semitism and all forms of intolerance, ADL has long been concerned with protecting and preserving the religious liberties of all Americans.

Contrary to common belief, our nation was not founded on the freedom of speech or the freedom of press; it was really founded on people seeking freedom of religion.<sup>16</sup> It was religious intolerance that drove so many of our ancestors to seek refuge on these shores. Whether it was the pilgrims who fled religious persecution,<sup>17</sup> or the Dutch

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<sup>14</sup> Richard D. Glovsky is the Chairman of the ADL National Civil Rights Committee.

<sup>15</sup> Glen A. Tobias is the Chairman of the ADL National Executive Committee.

<sup>16</sup> For an interesting look at theology of the early American settlers, visit Hanover College, *The American Colonies in the 17<sup>th</sup> Century: Theology* (last modified Nov. 7, 1996) <<http://history.hanover.edu/17th/theology.htm>>.

<sup>17</sup> On September 6, 1620, during the reign of King James I, 102 people boarded the Mayflower, leaving England and setting sail for the New World. The “pilgrims” left in search of religious freedom from the dominance of the Church of England. They were not, however, seeking freedom for all religions. Rather, they sought freedom for their own particular religious practices. In their compact the pilgrims wrote:

In the name of God, Amen. We, whose names are underwritten, the Loyal Subjects of our dread Sovereign Lord King James, by the Grace of God, of Great Britain, France, Ireland, King, Defender of the Faith, having undertaken for the Glory of God, and *Advancement of the Christian Faith*, and the Honor of our King and Country, a Voyage to plant the first colony in the northern Parts of Virginia; Do by these Presents, solemnly and mutually in the Presence of God and none another, covenant and combine ourselves together into a civil Body Politick, for our better Ordering and Preservation, and Furtherance of the Ends aforesaid; And by virtue hereof do enact, constitute, and frame, such just and equal Laws, Ordinances, Acts, Constitutions, and Offices, from time to time, as shall be thought most meet and convenient for the general Good of the Colony;

settlers in New York,<sup>18</sup> a variety of groups all came to the United States seeking religious liberty and religious freedom. Roger Williams argued powerfully that separation of church and state was the only way for true protection of religious liberty.<sup>19</sup> It was religious intolerance that spurred the framers of the Constitution to draft the First Amendment guaranteeing religious liberty for all citizens. In fact, religious activities in this country have flourished like no other country. We have more individuals practicing more different kinds of religions than any other country in the world. That is basically because we have kept government out of it.

So why is this conference being held? It is being held because religious liberty is being undermined as never before. In the past, there have always been religious leaders, or even sometimes zealots, who strove to make our nation a country with one established religion. But that is not the case this time. Now religious liberty is basically under attack by well meaning citizens who are trying to find solutions to some very difficult societal problems. They are trying to do that by partnering government and religion. So we are engaged in a high-stakes ideological struggle.

It is not a struggle over the value of religion. I think we all recognize that one of our country's greatest strengths is the degree and the diversity of our religious devotion. It is a struggle over the relationship between religion and government.

Some of us, including ADL, believe that the United States Constitution demands that the government should follow no policy that results in the promotion, endorsement, or funding of religious institutions. We believe that such a policy is not only good for democracy, it is good for religion. Others believe that government should assist houses of worship in the good work that they do, really good work, such as feeding the hungry, housing the homeless, and educating our children.

Today we will be discussing and debating vouchers and the providing of social services through religious institutions. While we applaud the good work and the contributions that religious institutions make in providing essential services to the needy, we are opposed to providing government funds to institutions whose primary purpose is to advance a religious agenda.

As an organization dedicated to religious liberty, we are concerned about the effect that government funding might have on religious institutions. After all, I have never seen, and I do not think any of us have, government funding that does not come with some strings attached. These issues represent a challenge to the vision of America. This

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unto which we promise all due Submission and Obedience. In WITNESS whereof we have hereunto subscribed our names at Cape Cod the eleventh of November, in the Reign of our Sovereign Lord King James of England, France, Ireland, the eighteenth and of Scotland, the fifty-fourth. Anno Domini 1620.

THE MAYFLOWER COMPACT, Nov. 1620 (emphasis added).

<sup>18</sup> The Dutch settled New York around 1614-1620. By approximately the English had dispossessed the Dutch of New York. *New York: A Documentary Film* (PBS television broadcast Nov. 14-18, 1999).

<sup>19</sup> Roger Williams was the founder of the state of Rhode Island. He was also a champion of the idea of religious freedom. Williams founded Providence, Rhode Island in 1636 after being banished from Massachusetts. “[Rhode Island] served as a refuge where all could come to worship as their conscience dictated without interference from the state.” *Roger Williams National Memorial* (last modified Mar. 28, 2000) <<http://www.nps.gov/rowi/>>.

vision sees us as a pluralistic democracy, free of religious coercion and accepting people of every religion and every creed, where the freedoms and rights of minorities are guaranteed. It is a vision originally developed by the founding fathers and one that the ADL is committed to defending today.

These are difficult issues. How we resolve them will impact our children and our grandchildren in the years to come in very profound ways. It is serious business, and that is why this conference is so very important. The exchange of ideas, the exploration of potential, and unintended consequences all may produce new approaches to these problems and, hopefully, new solutions.

I know we all look forward to some insightful and even spirited exchanges. I expect to be challenged, and I hope to learn much from the distinguished participants who gather here to share their perspectives.

Thank you very much, and let the debate begin. Thank you.

(Applause.)