

Comments by David A. Hollinger

Preston Hotchkis Professor and Department Chair of History, UC Berkeley

On the Una's Lecture

“Religion and Freedom of Speech: Cartoons and Controversies”

by Robert Post, David Boies Professor of Law, Yale University

March 14, 2007

A cartoon representing the Catholic church in the form of a fire fighter rescuing a priest from a burning building while abandoning a screaming child to the flames was rejected by the cartoonist's own American newspaper. Catholic readers would find the cartoon offensive. Rescuing suspected pedophile priests while neglecting the welfare of children entrusted to their care? What a rude thing to imply, how offensive, how gratuitously offensive, how indicative of an anti-Catholic bias! At issue in this American case was not legal right, which is the focus of Robert's lecture, but ethical propriety or prudence, which also appears to be at issue in Robert's decision to exercise his legal right to display the Danish cartoons of Mohammed; he might have decided not to, but he made a judgment to go ahead and do it.

I invoke the American cartoon about the Catholic Church because I believe it can serve as a bridge between Denmark and the United States, and between Robert's arguments about legal right, on the one hand, and on the other, several issues Robert does not directly engage but implicitly invites us to engage. Prominent among these issues is the ethical propriety of exercising the free speech rights that Robert's doctrinal analysis vindicates. Another is the prudence of exercising such rights. It might have been ethically appropriate for Robert to show the pictures here, in the “Free Speech Capital” of the country, on a campus proud to have at its center a column of free air rising up to infinity, but it was probably prudent of him not to podcast his lecture, promoting the dissemination of the forbidden cartoons beyond this free speech capital, and thus exposing himself to the danger of attack.

The ethical propriety and the prudence of exercising free speech rights obviously depend on particular circumstances. Such circumstances are relevant also to a yet more general issue Robert's lecture calls to our attention, the relation of religion to what he calls “real and pressing public issues.”

The closer the relation between religion and “real and pressing public issues” is understood to be, the more ethically appropriate it becomes for citizens to discuss religious ideas critically, because to refrain from doing so would, as Robert argues in a more narrowly legal context, inhibit democratically functional speech in the particularistic interests of this or that religious persuasion. The more distant from “real and pressing public issues” religion is understood to be, the less ethically appropriate it becomes to risk offending one's fellow citizens by critically discussing, to say nothing of ridiculing, their religious ideas. If religion really is a thing apart, then principles of elementary human decency dictate a respectful silence when 44% of the American public declare, as reported by Gallup, a belief that Jesus Christ will appear on earth

within the next 50 years and will pronounce judgment on every individual human being living or dead. So what? It's just religion.

Now, a striking feature of life in the United States at the present time is the extent of disagreement about the relation of religion to "real and pressing public issues." Merely invoking our constitutional separation of church and state does not carry us very far toward resolving the disagreement. This constitutional principle has been interpreted so differently at different times by different federal courts, to say nothing of the conflicting opinions of various law professors, politicians, religious leaders, and other engaged parties. Some private citizens file suits hoping to get removed the "under God" clause in the pledge of allegiance to the flag on the grounds that this relic of the Cold War struggle against "godless communism" is a violation of church-state separation. The College of William & Mary removed from its campus a huge cross on the grounds that, as a non-sectarian, indeed publicly-funded university, this cross was a violation of the church-state separation and an affront to the non-Christians among the college's students and faculty. The college's trustees reversed this decision in face of a huge protest, led by a donor who threatened to withdraw a twelve-million-dollar contribution to the college. The leaders of the Air Force Academy in Colorado Springs have not believed it a violation of the church-state separation to place heavy and repeated pressure on cadets and faculty to attend Protestant and Catholic religious services regularly and to decorate the ostensibly secular campus with banners proclaiming the Air Force of the United States to be "Christ's Warriors." Only a lawsuit led the academy's leaders to somewhat modify their practices. A general of the army who, in uniform, told church groups that the United States was a Christian nation was not rebuked, but promoted. Faith-based philanthropic initiatives are widely approved, even if they involve proselytizing. Federal funding for a hospital should not be placed in jeopardy, we are told repeatedly, if that hospital refuses on grounds of conscience to perform abortions, however legal. This morning's *San Francisco Chronicle* treats as front page news, as a truly astonishing story, the revelation by a local congressman that he does not believe in God. Such an opinion as voiced by a politician, in this age of faith affirmation, is seen as simply wild. The *Chronicle's* account was all the more interesting in view of the fact that Representative Stark allowed that he was, after all, a Unitarian. His degree of distance from Christian culture was surely not so very great.

In this atmosphere, should the legal rights that Robert vindicates be employed in the form of a robust, critical public discussion of religious ideas, perhaps even involving the use of ridicule, or do principles of ethical propriety and prudence encourage us instead to continue this society's current practice of giving religious ideas a respectful pass? By giving religious ideas a pass, I mean the convention of protecting religious ideas from the same kind of critical scrutiny to which we commonly subject ideas about gender or the economy or race. When Al Gore claims to resolve life's tough problems by asking "What Would Jesus Do," he can count on the respectful silence of those who privately doubt the guidance actually provided by this principle of applied ethics. Nobody asks Gore if he has examined his religious ideas with the same scrutiny he has applied to claims and counter-claims about global warming. Religion, wrote Richard Rorty in a widely quoted essay of a few years ago, is often a "conversation-stopper." When someone starts going on about The Rapture, the prescribed behavior—and I have seen this in operation countless times—is to politely change the subject, or to indulge the speaker as one might a child or an aged relative.

This convention has impressive foundations not only in the virtues of decency and humility but also in a constitutional tradition that does treat religious ideas as a distinct category of ideas, and in a history of religious diversity that renders silence a good way to keep the peace. The privatization of religion has been integral to the creation and maintenance of a public sphere in which persons of any and all religious orientations, including non-belief, can function together.

But do religious ideas not constitute a vital matrix for the political culture of a society? Scholars assume this when they study almost any society in the world. If religious ideas have no impact on how people deal with public policy issues, religion could be more comfortably ignored, and we could all go forward in our capacity as citizens of a secular polity ignoring each other's religious ideas. But we are nowadays constantly told that religious ideas are a vital ground for action in the public square. If religion is relevant to public affairs, then should not it be open for the same kind of critical discussion we offer to other kinds of publicly relevant ideas?

Interestingly, many who urge more acceptance of religion in the public square want skeptics to keep quiet, and indeed if you actually go after someone's religious ideas you are quickly accused of anti-religious bias. I find this stance highly problematic. If the faithful are willing to say that we should shut up about their ideas because, after all, they are private, then the faithful should not proclaim the relevance of those ideas to public affairs.

Many secular intellectuals seem divided and confused about this situation. Some who might engage religious ideas critically have complacently assumed that religion was in the process of dying. We don't need to subject religious ideas to critical scrutiny because such ideas are anachronistic. The result is that one class of ideas that flourish in our society with remarkable little critical scrutiny is the class of ideas we call religious. The relation of religion to the discipline of philosophy in recent decades, as contrasted to what that relation was several generations earlier, illustrates this situation.

American philosophers have experienced their greatest moments of intimacy with the American public when they spoke directly to the religious anxieties of their audience. This was certainly true of William James and Josiah Royce a century ago, and to some extent of John Dewey, the most influential American philosopher of the first half of the 20th century. Dewey eventually became a militant secularist, but as he did so he engaged with Christian ideas by way of casting doubt on them, defending secularism in terms that his readers could understand within the context of a shared Protestant past. To be sure, there remain distinguished philosophers who defend a religious worldview, but the discipline's leaders in the major universities rarely attend to the ideas of the ancient Mediterranean prophet George W. Bush names as his "favorite philosopher:" Jesus Christ.

My point is not that philosophers should be more religious than they are—I want only to note that the discipline that once contributed precious analytic rigor to the evaluation of religious ideas rarely treats religion as a respectable rival to secular worldviews.

This reserve in the face of a heavily Christian public contributed to the expansion of the discursive vacuum that now exists. On one side of the vacuum hovers the bulk of American intellectuals, isolated from the religious currents in American life that are ready to be drawn

upon by politicians. On the other side of that vacuum is distributed the majority of Americans, isolated from a critical scrutiny that might encourage popular faiths more consistent with modern standards of plausibility, more resistant to the manipulation of politicians belonging to any party, and more accepting of the wisdom in the sharp separation between church and state.

The vacuum is filled with easy God talk, like that of G.W. Bush when he assures the world that his policies in Iraq correspond to God's will. How different was the voice of Lincoln, who never joined a church, but who invoked the deity in a spirit of humility. In his Second Inaugural Address of 1865, Lincoln cautiously alluded to "those divine attributes which the believers in a Living God always ascribe to him," speculated about what such an omniscient God's will might be, and stopped well short of expressing confidence that, as president, he could be sure that God was on his side.

Although we are not likely to find another Lincoln, I sometimes wish we could use a more expansive, candid conversation about religious ideas, especially among secularists and liberals of different faiths. These liberal-religious voices have plenty to offer the public, and to one another; they might even discover that they have more in common across the religious-secular divide than many of them imagine. And the timing may be just right. The greater religious diversification of American society by Muslims, Hindus, and openly non-religious persons of Christian and Jewish backgrounds in particular renders the United States a spiritually different place from what it was during the early Cold War era, when secularists cowered before Protestant and Catholic accusations of complicity with a "Godless Communism."

In pondering this it might be helpful for us to be reminded that in some earlier episodes in American history, religious ideas were indeed critically debated, and even with a touch of ridicule, even as the church-state separation was defended. An example is the ante-bellum debates over slavery. The *Bible*, it was reasonably argued by pro-slavery politicians, theologians and political theorists, had no problem with slavery. These pro-slavery Christians said that abolitionists just did not know their Bible, and were projecting their own secular ideas on the sacred text. *Leviticus*, *Exodus*, *Ephesians*, and *First Timothy* were routinely cited as Biblical warrant for the acceptance of slavery, and abolitionists were hard pressed to find scriptural warrant for their side even in the gospels and in the letters of Paul.

But beyond the slavery debates, those who discussed issues of public policy in the 19th century understood full well that the kind of society in which they lived depended in part on the basic view of the world accepted by their fellow citizens. A great example is the career of the great feminist, Elizabeth Cady Stanton, who issued what she called *The Woman's Bible* in the 1890s, which openly criticized passages that Stanton found offensive to women—and there were a lot of them. Stanton understood, just as the canon-revisers in our English Departments of the 1980s understood, that the books people read had something to do with what kind of people they were and what kinds of political culture they would create; Stanton went after the *Bible* with a vengeance, the *New Testament* as well as the old, and scolded the authors of the ancient texts like a confident schoolmistress correcting the spelling mistakes of the class dunce.

Now, not everyone appreciated this. Indeed, Stanton's religious writings were felt by many other feminists to be ethically inappropriate, and, more important, imprudent and even impolitic. Soon

upon her death Stanton's memory was largely erased by the American feminist movement, Her place in the movement was obscured with a new celebration of the more conventional Susan B. Anthony, who ended up on the dollar coin.

Stanton's contemporary, the great agnostic lyceum speaker, Robert Ingersoll, also went after specific religious ideas with a critical spirit, and was denounced for it, but at least his generation—Ingersoll died in 1900—was familiar with some of the same objections to Christianity which, when raised in our own time by Sam Harris, seem unconscionably rude. Ingersoll had many enemies, but Ingersoll and his enemies were at least part of the same conversation.

Reference to Sam Harris, author of the two best-sellers, *The End of Faith* and *Letter to a Christian Nation*, brings us back to the present. Harris and the British scientist and writer Richard Dawkins are indeed trying to advance the robust, critical discussion of religious ideas the propriety and prudence of which I have been urging us to consider. But their work and the controversies swirling around it have several features to which we should attend.

Dawkins especially, but also Harris, dismiss all varieties of religious belief on the grounds of a confident, naturalistic metaphysics. Harris makes a special point of criticizing people he calls "religious moderates," which in normal theological language would be called liberal Protestants, liberal Catholics, liberal Muslims, and so on. Reviewer after reviewer has treated the books by Dawkins and Harris as not worth systematic refutation because these guys can't tell the difference between Jerry Falwell and Peter Gomes, can't distinguish between the Muslims who attacked the World Trade Center and the Muslim in Jytte Klausen's *The Islamic Challenge*, can't tell a Mormon from a moron, to say nothing of a Methodist.

I have watched this controversy with some dismay. It seems to me that many of the points Harris, especially, makes about the value of evidence and reasoning, and the real tension between certain beliefs and a post-Enlightenment episteme, are being lost because readers cannot get over Harris' refusal to appreciate the sophistication of the average Episcopalian. Refuting Sam Harris has become rather like refuting Samuel Huntington: almost any academic can do it, and when you finish you congratulate yourself for your cleverness and move on to something else. But if Huntington is wrong about Mexican Americans, the questions he raises about immigration and assimilation are far from silly, and deserve better answers than Huntington's critics often provide. So, too with Harris.

I think Harris was imprudent to treat all religious believers as equally obstacles to a more rational and democratic society. He misses the opportunity to develop an alliance between secular liberals and religious liberals. He displays no understanding of the historical circumstances that have led many highly intelligent and well-educated people to espouse religious faith. If he did understand this, he might play a more helpful role in a public conversation about religious ideas.

Religious liberals, for their part, seem to be dodging what might be seen as their responsibility for going after the religious ideas of their conservative enemies in public. Many of them seem very timid. I recently had an occasion to discuss these issues with a former President of the Unitarian-Universalist Association of the United States, who advised strongly against a robust,

public discussion of religious ideas. “My side,” he said, “would lose.” Now, this man represents one of the groups that created liberal Protestantism in the United States; it was the Unitarians who subjected Congregationalist orthodoxy to withering public scrutiny and pioneered the development of non-literal interpretations of scripture in the 19th century. If the Unitarians shrink from the struggle, and take refuge in the convention that religious ideas are after all private, and if the likes of Sam Harris won’t give the Unitarians the time of day, there may be little chance for the flourishing of an honest, far-ranging critical discussion of religious ideas in America.

Several paragraphs of this talk have been adapted from my article “Among the Believers” (*Harper’s*, November 2004).