"Anti-Cultists, Social Policy, and the 1984 Island Pond Raid"

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PREFACE
A Commentary: "The History of the World as a Backdrop…"

The future of freedom everywhere depends on how government servants respond in each case where an individual's actions come into conflict with mandated State interests. Hence, it is important to remember that government is the servant and not the master of the people. As a humble servant, government has righteous authority, but when government becomes a tyrant, those who cherish freedom must stand on freedom and use their human voices to call for freedom.

The story of the 1984 Raid on the Church in Island Pond, Vermont reveals that the government of Vermont (the executive and its agents) was a tyrant that day. The church members stood on the guarantees of their personal freedom and for the fundamental principles of freedom known in the conscience of all men. It was the vigilant judiciary who upheld freedom that day and stood in the gate against tyranny, (Richardson, introduction, Social Justice Research Journal, December 1999) upholding the maxim that a democratic government is "a government of laws and not a government of men."

Andrew Crane, the Defender General of Vermont who represented the parents before Judge Mahady in 1984, called the Raid the "easiest and best case of my life." It was easy because there was no legal question that what the State did was wrong. It was the best because of the degree of injustice that was defeated that day. In a May 2000 interview Crane called the language used by Mahady "important" because people in Vermont

> "needed to see how outrageous it was [what the State did]. He [Mahady] wrote [his opinion] that way to educate the citizenry that the State was completely out-of-line."

It is a lesson that needs to be learned around the world wherever religious freedom is threatened, especially for those whose consciences dictate a belief in God that is politically or socially disfavored.

Scott Skinner was the Director of the Vermont branch of the American Civil Liberties Union at the time of the June 22, 1984 Raid. To pass on what he said about that day and its repercussions in a May 2000 interview is accurate and insightful, providing a contextual analysis for how freedom is upheld or lost by any given government in any given situation.

Skinner reflected that Mahady used "the history of the world as a backdrop to educate the public about search and seizure." Judge Mahady called the State's warrant herding 112 children *en masse* to undergo a battery of tests by doctors, psychologists and social workers "broader in scope than that of Herod the Great, (though admittedly less Draconian in purpose.")[1] [meaning less inhumanely severe or cruel than Herod's design to slaughter the Innocents.] The judge held that "even a goal as laudable as protecting children from abuse cannot justify the means here employed."[1]

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[1] *In Re; C.C.* 22-6-84 Osj, Aug. 6, 1984 Opinion re: Search Warrant at p. 9, available at www.twelvetribes.com Appendix B to "An Issue of Control" paper in section *Chronicling Our Legal Battles.*

Skinner recalled "the unprecedented way in which the raid happened and how it was treated by the press, the absolute magnitude of it." Judge Mahady's ruling

> "turned the tide against the State's plan. There was an explosion of public interest and national camera crews helicoptered to the scene"

in the Northeastern tip of Vermont. The administrative judge

> "appointed the most brilliant judge he could and this combined to make a powerful lesson that won't be repeated at least for 50 years. The way it happened was a disaster for the State of Vermont. The outcome was fortuitous, with the system of checks and balances not necessarily succeeding. The executive was intent on abusing its power. The judge who signed the warrant, a decent man, found himself on a railroad train being swept along by forces larger than he was."

He later acknowledged he had been "pressured" and that the "Raid was a tragedy for the State of Vermont." Because his actions were reviewed and overruled by Judge Mahady, "in the end the judiciary prevailed." (Swantko, 2000)

Introduction

In June 1984 the State of Vermont, led by the Governor and the Attorney General and their agents, executed an illegal armed raid on a small religious group seizing 112 children, having been influenced to believe claims of child abuse that were generated by members of the anti-cult movement. (ACM) (Swantko, 2000), (Palmer, 1998) The "grossly unlawful scheme" was quickly stopped that very day by Judge Frank Mahady when he carefully applied the standards of the U.S. and Vermont Constitutions to the State's action of searching some twenty homes and seizing all the children because their parents shared a common faith.

Within six weeks this eminent jurist issued five separate opinions explicitly detailing how the State government encroached the protected rights of these families. He wrote a 64 page decision that police, lawyers, scholars and judges alike use as a teaching tool, to teach the spirit and application of the Constitution, a spirit of liberty and justice for all - even the unpopular.

While State lawyers filed an immediate appeal, it was promptly withdrawn within a week after the Governor appointed Special Prosecutor William Gray who found the appeal lacking in merit.

Jurist Mahady was later named Man of the Year in Vermont for his learned decision in this case, but sixteen years later, the initial misinformation alleging abuse in the Twelve Tribes' Communities is still circulated throughout the world by the international anti-cult network. (Swantko 2000) Although Judge Frank Mahady quickly declared the seizure of the children

unconstitutional and immediately returned them to their parents[2], the influence of the anti-cult movement did not end there.

At that time a psychologist named John Burchard was the State Commissioner of Social and Rehabilitation Services (SRS). As such, he was responsible for the investigation of child abuse claims in Vermont. He was a prime mover in the unconstitutional plan to seize all the children of the Church in Island Pond, in an attempt to detain them for three days and to examine them for signs of abuse. The court categorized the illegal effort as a "massive fishing expedition" [3] to investigate for evidence.

Even though Burchard's intrusive actions and discriminatory approach during the Raid were soundly denounced as blatant and undisguised violations of constitutional freedoms, he has written two articles defending that action and further advocating laws for more expansive access to children who live in minority religious communities. (Burchard 1984, 1992) The empirical basis for his conclusions is his personal experience with the 1984 Island Pond Raid where the judiciary found him in serious error for disregarding concerns of religious freedom and equal treatment under the laws.

Even more significant and alarming is the fact that professionals rely upon his recommendations as potentially necessary to protect children of minority religions from alleged child abuse. (Richardson 1999 in Palmer and Hardman 1999, Hardin, Wash.L.Rev.Vol.63, No.3 (1988) in "Legal`Barriers in Child Abuse Investigations: State Powers and Individual Rights;" Wald and Burchard, D.L. 1988) Despite a stinging rebuke from the courts for his actions in the Island Pond incident, Burchard has proposed new legislation curtailing freedoms of religion and

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[2] Twelve Tribes Communities include 25 communities ranging in size from 30-120 in ten countries on four continents. These believers live a common life of sharing in Communities according to the pattern in Acts 2 & 4 in the Bible.

[3] *In Re; C.C.,* fn 1 *infra,* Petition opinion p. 13.

association for parents and children in "closed religious communities," a term loosely and subjectively defined by him. (Burchard 1992) He does so in a vacuum of accurate information, without adequate understanding of the limits of the law, and without having reliable sources or methodology.

It has recently come to light that renowned deprogrammer Galen Kelly had prepared a six page Investigative Report on Island Pond for Priscilla Coates of the Citizens' Freedom Foundation (precursor to the Cult Awareness Network a.k.a. C.A.N.) in 1983. Therein he proposed a plan to destroy the Church in Island Pond by working closely with government agencies and winning their support of his cause.[4] One of those state agents persuaded by their tactics was John Burchard.

The following analysis of an article written by Burchard in 1992 in the journal "Behavioral Sciences and the Law" Vol. 10, 75-88 (1992) reveals the error of relying on bad data as a basis for policy decisions. Such reliance is unsound, undependable and imprudent. His publications reflect an anti-cult bias and propose less constitutional protection for some who happen to live communally and belong to minority religions.

As Judge Mahady ruled:

> "Adlai Stevenson once noted that "guilt is personal," and I might add "not communal". Our Court has held many times that mere presence at a particular place is not sufficient to establish participation in a particular act. Therefore, "when the court seeks to take the child out of the parental home, it may do so only upon convincing proof." Here, that State lacks any proof whatsoever as to these children and these parents, much less 'convincing proof.' " (citations omitted)
>
> Detention Order opinion at p. 4

This paper proposes to detail the flaws in John Burchard's approach and to undermine his thesis for more expansive access to children in minority religions. Primarily it will clarify the

explicit Constitutional violations committed by the 1984 Vermont action and show how his recommendations propose to perpetuate the same type of illegalities at the expense of religious freedom around the world. The problem of religious intolerance remains an international issue of far-reaching global proportions. Social policy should not be influenced on the basis of an anti-cult perspective that is neither trustworthy nor empirically reliable. This paper will also propose some suggestions about what we can learn as we grope for just and effective social policies and laws.

Right now perhaps the most controversial spot of global attention is France because of its recent legislation outlawing innocent behavior when performed by members of religious minorities. All of a sudden normal civil discourse becomes criminal and a social threat, if performed by individuals affiliated with some other way of connecting to God than the mainstream dictates. This paper will show just one example of how bad legislation seriously curtailing religious freedom can result from trusting untrustworthy sources without listening and learning from the restraint of the judiciary. One mistake, left uncorrected, can be magnified and multiplied to cause grave damage to the climate of religious freedom world-wide. Adherence to procedural and substantive standards of fairness and equal protection of the laws cannot be forsaken, for it is the bastion that safeguards religious liberty in the nations of man.

* * *

The Mahady Decision: The Raid Was A Gross Violation of Rights

In the days and weeks following the June 22, 1984 Raid on the Community Church in Island Pond, Vermont, District Court Judge Frank Mahady issued five separate opinions, totaling 64 pages, covering the different legal issues raised by the State's unlawful actions. The five

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[4] After C.A.N. went bankrupt in 1995 after the Jason Scott lawsuit, the files were turned over to the new C.A.N. Therein the Kelly proposal was found in 1998.

opinions have major legal and social significance, acknowledging the limits of government and the rights of individuals in a free society. In preserving the religious freedom of the members of the Church in Island Pond in the face of extreme governmental pressure to interfere in their lives, these are landmark opinions in their analysis of the Constitutional issues raised. [5]

The five opinions are as follows:

1) Denial of the state's request to detain all of the children for examination by social workers; June 25, 1984;
2) Photographs taken by State of each child for identification purposes declared illegal and beyond authority of the law; June 25, 1984;
3) All cases brought were dismissed because religious association is an unlawful basis to allege danger of harm; July 2, 1984;
4) Court dismissed all the petitions because it found the state without jurisdiction because it had no allegations of specific facts for specific people; August 7, 1984;
5) All items seized were disallowed as evidence because the general warrant was unlawful and without probable cause, August 6, 1984.

Burchard's Response To Raid: Based Upon The Following Errors Of Fact

Error 1. Use of Prejudicial Language and Ill-Founded Premises

Throughout Burchard's 1992 article entitled "Investigations of Child Abuse/Neglect Allegations in Religious Cults: A Case Study in Vermont" he uses the term "cult" in a way that reflects the bias denounced by scholars because it is likely to result in discrimination and lack of

[5] See fn 1

due process to members of religious minorities. (J. Richardson, 1986 "Cultphobia") He generically refers to "non-cooperative religious cults" as if they are all the same and claims that "these groups" make access for social workers "problematic" as if this amounts to action akin to a crime, justifying social workers' to be suspicious until they are satisfied to the contrary. When he claims that "beliefs held by cult members justify and even endorse abuse" (at 75), Burchard denies a presumption of good faith to group members by arrogantly implicating that members commit what he considers "bad acts" because of the collective to which they belong. In so doing, as an agent of the State, Burchard, in the application of one single concept without regard for Constitutional protections, wiped out recognition of a family's right to be together and stay together by invoking the best interest of the child standard.

A key point unrecognized by the State in their 1984 efforts was not overlooked by Judge Mahady. He ruled:

> "Of course, the best interests of the child involved is the principle concern in juvenile proceedings. However…the best interest of the child is a useful maxim, but it comes into play only when there is a legal justification."
>
> -Detention Order opinion at 3

While social services Commissioner Burchard used such bureaucratic inconveniences to charge community members with "having violated the law," the Court ruled otherwise. Burchard focused on the problems for the State that presented what he calls "obstacles to investigation." (at 76-79) He refers to the "self-imposed isolation of cult members," the "reduced possibility of reporting," "difficult access to parents and children" and "different perspectives on acceptable treatment of children," as if he has produced some methodologically sound data base. However, his terms are subjective and not based on accurate data. His sources are reporters and

purveyors of anti-cult perspectives who had the deliberate intention to destroy the group Burchard was convinced that the children needed to be rescued from. Without reliable evidence to this day Burchard still believes that because he read accounts in the newspaper, he is on solid ground to conclude that "what [members] believe is abuse by state law." His proposals are grounded in this unsound approach.

Judge Mahady held the State to its

> "burden and heavy responsibility to demonstrate by sufficient evidence, not generalized assumption, that it is necessary to separate each of these 112 children from his or her parents."

After precisely enumerating the State's utter failure to obey the juvenile proceedings established under Vermont law, as well as the provisions of the U.S. Constitution upholding family integrity, Judge Mahady concluded

"Indeed, it is all too clear that the State's request for the protective detention permitted by the statute upon an appropriate showing was entirely pre-textual. What the State really sought was investigative detention. In effect, each of the children was viewed as a piece of evidence. It was the State's admitted purpose to transport each of the 112 children to a special clinic where they were to be examined…. Not only were the children to be treated as mere pieces of evidence; they were also to be held hostage to the ransom demand of information from the parents."

In refusing "the State's rather incredible request that the Court issue a blanket detention order for 112 children *ex parte* and without even holding hearings," the Court concluded, "Even such a goal as avoiding the abuse of children, however, cannot justify the means here employed."

Error 2. Claim That Parents Were Uncooperative Used To Justify Expanded State Power

While Burchard took great issue with what he alleged was lack of cooperation by Community parents, the Court found that indeed the State had violated the law in their incursion into the protected realm of family life. Judge Mahady ruled that

> "The freedom of children and parents to relate to one another in the context of the family, free of governmental interference, is a basic liberty long established in constitutional law."
>
> -Detention Order opinion at p. 2

The State went beyond Constitutional limits and exceeded their boundaries. They wanted and tried to take more than what they were entitled to. The parents were within their protected interests of family autonomy to exercise their Constitutional rights to seek individual treatment under the law.

While Burchard alleges "non-cooperative parents in closed religious communities" as a justification to eliminate "legal obstacles to the protection of children," Judge Mahady elaborated on the essential nature of individual treatment in order to "minimize the possible intrusion upon the parents' constitutional right to family integrity." He found the State's admitted plan to return a child to its parents only if the parents "cooperated" by giving the police certain information, abhorrent, stating that "no human being in the United States may be [so] dealt with…by government officials or by anyone else."

> "Had the Court issued the detention orders requested by the state it would have made itself a party to this grossly unlawful scheme."
>
> - Detention Order opinion at p.6

While paying lip service to the recognition of Constitutional rights of members of religious minorities, Burchard quite candidly acknowledges that if parents in traditional nuclear families actually *exercised* those rights, it would be a problem for social services to investigate. He cites Burchard (his son Dan) and Wald (1988) for the proposition that parents often cooperate with state investigators contrary to their wishes because they

> "may be intimidated by the presence of state officials and believe that continued resistance would prove futile."
>
> (Burchard 1992 at 76)

The amazing fact of the matter to be recognized here is that the State actually relies on the fact the most parents are too intimidated to exercise their inalienable right to safeguard the integrity of their family. Most parents simply succumb to the pressure of social workers, often in a threatening manner, using the power of the state to inquire into family matters. Therefore, Burchard argues, the exercise of Constitutional rights by community parents is an "obstacle to investigation" to be done away with under the rubric of "non-cooperation." As a Twelve Tribes' leader, Elbert Spriggs, commented in June 2000 at a public celebration commemorating the deliverance of the 112 children in the 1984 Raid "Watch out. 1984 is past. Enter brave new world."

Error 3. Burchard Claimed That Parents Violated Laws When It Was The State That Went Beyond Legal Limits

Burchard cites church doctrine as a problem using it as the foundation for which church members denied the State free access to their children without cause. Island Pond church members acknowledge governmental authority and clearly surrendered willingly to court process the day of the Raid and by attendance at previous hearings. Nevertheless Burchard claims fault and religious fanatacism by the parents. He fails to acknowledge that the reason church parents stood their ground was because they believed that the State was beyond their lawful authority in seeking access to their children. The Court said the parents were right and the State was wrong because the State had no evidence of harm. When the parents stood on their guaranteed rights and went to court for judgment, it was the State who fell short, not the parents.[6] Quoting the decision dismissing the cases,

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[6] Contrast the incident at Waco where the Branch Davidians did not receive the warrant and let the courts decide the issues such as weapons violations, etc. The importance of relying on informed scholars for understanding of a group's beliefs cannot be overstated. Relying the subjective propaganda of anti-cultists can prove devastating and

> "However, under the circumstances presented to this Court on June 22, the State's own theory of the case ran obviously afoul of both the First Amendment and the Fifth Amendment to the United States Constitution.
>
> The State argued its case well and clearly. Its theory was that there was considerable evidence of the abuse of some children in the past by some members of the Northeast Kingdom Community Church in Island Pond.
>
> The Deputy Attorney General and the Special Assistant Attorney General both stated to the Court that there was no evidence whatsoever of any specific acts of abuse directed toward any one of the 112 children brought before the Court.
>
> To close this obvious probable cause gap, the State argued that the 112 children were found in residences or other buildings owned by the church and that it was a basic tenet of the church to harshly discipline children. The argument concluded that each of the 112 children "*may* be in need of care and supervision."
>
> Therefore, the essential causal nexus in the State's position was the association of each child's parent, custodian or guardian with the church in the face of the church's tenet teachings regarding child discipline."

The Court found that even

> "the phrase 'child abuse' cannot be invoked as talismanic incantation to support the exercise of State power which egregiously violates both First and Fifth Amendment rights. Even where the State acts in a noble cause, it must act lawfully." Dismissal Order, p. 7

While Burchard makes his case for less oversight by a judiciary who applies the rule of law and Constitutional protections equally to all, Judge Mahady clearly applied the following legal principle:

> "It is certainly inappropriate for the Judiciary to allow the Executive to circumvent the clear requirements set forth by the legislature. The petition is defective. The defect is jurisdictional."
>
> -Petition Opinion, p.3

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deadly, as Professor Nancy Ammerman concluded in her portion of the 1983 Dept. of Justice Investigative Report on Waco.

In other words, it was not the parents of the Community who violated the law. It was the State of Vermont and the violations were not technical and minor. Rather they were fundamental and an anathema to religious freedom and parental rights. It was the State who was the guilty party, not the members of the Twelve Tribes who came to court peacefully, surrendered to the court process and were judged accordingly.[7]

Error 4. Burchard Claimed Parents Didn't Follow State Authority Respecting Children

It was the state agents who didn't follow the state law in the events surrounding the Raid. The State took unlawful photos of the children. Burchard claimed that children in Island Pond "had been taught to fear all strangers." (at 83) Actually the children were taught to be hospitable to strangers and a psychologist assessing community children who had been in the Raid and raised under the teachings of their parents in the Island Pond Community, found them to be "well-adjusted, social and showing no signs of abuse."[8] Dr. Craig Knapp read church child training teachings and found their child rearing philosophy to be "developmentally sound" and a viable alternative to those seeking a life outside the mainstream."

Error 5. **Burchard Claims State Had Evidence And Case Against The Church**

While Burchard claimed evidence of abuse on children, he relied on newspaper reports (at 82) unlawfully published. As Commissioner of Social Services, Burchard knew the confidentiality laws for juvenile cases. He violated them. He then used the fact that reporters printed unlawful disclosures to justify his own use of them, clearly prohibited by State juvenile

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[7] See "The Twelve Tribes, The Anti-cult Movement and Government's Response", Jean Swantko, *Social Justice Research Journal*, 2000.
[8] See excerpt from pscychological evaluation of family in 1994 divorce case at Appendix N at www.twelvetribes.com

statutes. While the law contemplates voluntary or mandated reports, Burchard and his team relied on hearsay as well as unsigned and unsworn statements from defectors who were tracked down and sought out. (Bromley 1998, Palmer 1998) There were no affidavits as Burchard claims. There was no evidence of "bad acts" against the seized children. The affidavits were those of state investigators quoting hearsay and pressured statements.

To give appropriate weight to what a scholar says, it is axiomatic to check their sources. Burchard's bibliography causes the reliability of his recommendations to collapse like a house of cards. Seven are newspaper reporters. One is his son who wrote an unpublished paper based on Burchard's own information. He relies on his own earlier article without acknowledging the court rulings undermining his unlawful approach. Another source is an attorney commissioned by his office in the months after the Raid. And finally he cites a 1984 article by Lowell Streiker who in 1992 completely renounced his position therein, taking a clear stand against anti-cultism.[9]

It becomes readily apparent that Burchard's article is not based upon reputable social science data or on evidence, but solely on the faulty assumptions made by presuming "all cult members are child abusers…are non-cooperative…are unresponsive to government authority, etc., etc." Judge Mahady took great care to weigh the State's "compelling and legitimate interest in child protection…as one of our most serious societal problems," stating "the State's motives are not at issue here." Yet, he goes on to firmly conclude to that

> "There was no probable cause for the Petition as applied to the facts of the cases dismissed. They were therefore properly dismissed."
> Dismissal opinion at p. 7

The court made it abundantly clear that

> "Upon a proper evidentiary showing of abuse, this court is not the least reticent to take immediate and effective action under the law to protect the children who are the objects of such abuse." Detention Order p.8

[9] Lowell Streiker Affidavit May 14, 1992 in *Anatomy of a Hate Group*

Error 6. Draws Conclusion That "Exhaustion of Remedies" Mandates "More Adequate Statutes and Procedures"

A fundamental flaw in Burchard's approach is that the state was concerned more with destruction of a group whom it believed embraced "destructive ideas", contrary to the State's definitions of sound ideas of child rearing, rather than with coming against "bad acts" that there was evidence to substantiate. Burchard, to his credit, outlines a valid "web of interests" (at 83) including parents and children, the state, child protection, family privacy and free exercise of religion. He described the "conflict" that occurred when "the State" tried to remove the children from the parents thereby challenging the family autonomy rights of both the children and parents. His error is that he describes the seizure as if the "State" has a right to remove the children and the parents were wrong to not cooperate with it, so ***therefore*** the state should have more power. Reality was that his ***department*** of the state made an erroneous judgment based on suspicion, not evidence and the ***state government in the form of the judiciary ruled that the executive branch broke the law in their effort.*** Really, the solution is that simple. The State government should have stopped when the first judge told them they could not go forward.

> "Three days before the ill-fated Raid, a Family Court Judge rejected the state's request to force seven Community men to divulge the names "of all the children whom they lived with" (Summons, June 19, 1984, in *Re: C.C.*, Vermont District Court, Unit III). Despite jailing these men for several hours for contempt, 85-year-old F. Ray Keyser later released them. Judge Keyser made the Constitutional and statutory prerequisite of individual treatment for Church members abundantly clear to state officials. Judge Keyser, a retired Vermont Supreme Court Justice, was the judge of their legality that day and he found the state fell short.
>
> This was the state's final effort to proceed lawfully and the court rejected it, warning the state lawyers that they needed "the specifics" and "the names" to go further… Despite this explicit ruling on June 19 in favor of the Community parents, the state authorities did not abide by it.

> When this judge followed the Constitution at an inquiry to force church leaders to give the names of innocent church members, the state simply ignored his ruling." [10]

It is clear that two eminent jurists ruled that the State did not have the necessary evidence to go further in the Island Pond case. The problem was ***not*** that the State had exhausted their remedies and needed more. The problem was that the State exceeded the lawful power it had and it should not have resorted to police action beyond the limits of the law.

REFLECTIONS ON 1984

Perhaps the greatest evidence of the need for state agencies to be under the authority of an informed judiciary is to refer back to John Burchard's 1984 article which clearly reveals that he did not receive the judgment of the Court against the State of Vermont. Time and space limitations do not permit a thorough analysis of Burchard's 1984 paper here, but a brief summation is necessary. It is noteworthy that his initial response to losing in the face of the application of the law was not to reflect on his errors, but to seek more laws.

John Burchard's Initial Response July 17, 1984

Less than one month after the Raid, Burchard wrote a paper entitled *Children At Risk: Why Protective Action in Island Pond Was Necessary* dated July 17, 1984. He minimized the weight and Constitutional magnitude of Judge Mahady's judicial ruling. Burchard equalized the legal weight of the Mahady opinion with that of the warrant- signing judge, who was overruled and who humbly acknowledged his own error admitting that he had been persuaded by people whom he should not have trusted. (Swantko 2000) Burchard's analysis reveals a shocking lack of

[10] Swantko 2000 in *Social Justice Research Journal*

understanding that the Special Prosecutor did not appeal the State's case because it had no legal merit and that Mahady's ruling is binding in law and grounded in the Constitution. His 1984 response shortly after the raid makes some revealing admissions and points to the essential need for an informed judiciary to check the limits and actions of social agencies.

Error 7. Information Claimed "Compelling" Was Not Evidence

Commissioner Burchard claimed his office "had some compelling information which guided their action, ***information which was not available to the public***." (p. 2) This information was allegations of abuse provided with the help of anti-religion activists Kelly and Coates who consulted with the Attorney General's office. These so-called "reports" were substandard and not evidence. They were not volunteered as the statute contemplates in order to protect a child in danger, but rather "unearthed" as part of plan to accumulate charges against the church community and had focused criticisms on supposed church "beliefs." State investigators traveled to interview defectors who gathered hearsay statements of the worst kind on tape.[11] Such accounts are notably unreliable. (Bromley 1998, Palmer 1998, Richardson 1993, Shupe 1998)

Error 8. His Claim That The 1984 Raid was "a preventative action, taken under the standards, mandates and responsibilities of child abuse law…" (p.4) Was Found A "Grossly Unlawful Scheme" By The Court.

The particular violations of law and Constitution found by the Court enumerated herein reveal that the State actions that day were **not** <u>under</u> the "standards, mandates and responsibilities of child abuse law" but they were "over, around and behind" those laws, being intrusive in nature and not preventative at all. They were unconstitutional.

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[11] In S*tate v. Wiseman* 91-7-83 Ecr (1983) the State could not produce the tape when requested by a church member. The State claimed to have lost the tape, while asserting that the "evidence" thereon was an adequate sole basis to declare all the children seized to be "in danger of harm." July 12, 1984

Error 9. Commissioner Burchard Admits He Relied on Newspaper Accounts As Valid and That He Only Acted On The *Possibility* That Abuse Had Occurred

The law requires reasonable evidence that abuse ***has occurred*** ***before*** action is justified. Burchard, turning the mandate of the law on its head, felt justified to conclude that "there is reasonable evidence that child abuse ***may have occurred"*** **because** officials "must believe…the published accounts of disciplinary practices" as reported by the press in newspapers and magazines. (1988 Burchard p.5) The attenuated, flimsy and unsubstantiated nature of the claims is one reason Judge Mahady ruled the Raid illegal and the search warrant without probable cause. Hence, there was no legal basis to appeal his ruling and the State quickly dropped their immediate appeal that had made headlines statewide in an election year.

Error 10. His Position Reflects A Misapprehension of The State's Burden and The Limits of State Power

Burchard accused community members of "thwarting steps of due process" stating that the community is "purposefully organized to shield the identity of the parents and children." (p.7) Simply because the State found it difficult to serve papers on Church members who live communally, he unfairly attributes a bad motive to them, reflecting his bias, prejudice and thin regard for due process rights which belong to the people, not the government. This thin line between public duty to protect and overzealous action to intrude is one that must be vigilantly guarded by the branches of government by holding the state to follow its laws and constitutional limits. Burchard proposes lessening those limits to make the job of government easier at the expense of cherished rights.

He does not consider the oppressive attitude of social service workers who heard unsubstantiated claims, believed them and came to church members with an attitude of "we know you are guilty of something terrible and we have power over you." Yet State workers expected full cooperation and reacted badly when church members simply stood on their rights. A more sound policy is to treat parents with the presumption of innocence and in good faith give them an opportunity to respond to specific allegations without prejudging what the truth is.

An example of the effect of the State's biased approach is to impute a bad motive because community parents home-school their children, a legal alternative. He states it as if it is objective that parents home-school "to avoid the potentially evil influences of outsiders" and to "reject the authority of local, state and federal laws." (at 76) Such slanted perspectives distort the process of finding the truth.

Error 11. State Intentions Reveal Direct Coordination with Anti-Cultists

Burchard acknowledges that at "strategy meetings" in the fall of 1983 he and other officials discussed options inclusive of the state action to raid the church and take its children. Priscilla Coates and Galen Kelly met with the Attorney General's staff August 9, 1983. Thereafter, state investigators were sent around the country to talk to ex-members hand-picked by them to dig for stories of abuse. This is not the procedure contemplated by the statutory scheme. This is not, as Burchard claims, "routine procedure, different only in numbers."

Error 12. His Theory Reveals Ignorance of Legal Standards and Lack of Good Faith Toward Church Members

Burchard claims that the case was dismissed on June 19, three days before the Raid, "for unknown reasons." (p.11) There were critical illegalities in the state plan. He should have

understood them. Instead, Burchard writes about this day that it "clearly established that ***the parents***…were unwilling to obey lawful orders" and that ***they*** were "unwilling to cooperate voluntarily with the State's legal mandate." His reading utterly disregards that ***he*** violated the law and that the parents merely exercised their rights without violating the law at all. What he called "active, unlawful resistance" (p.13) on the part of community church parents, might more appropriately be termed "active, unlawful ***persistence"*** on the part of social services.

1984-1992

Even after eight years had passed since Judge Mahady's ruling, John Burchard continued in his subjective perspective of what happened in Island Pond and asked social scientists to disregard fundamental freedoms for people who live in minority religious communities. The author suggests disregarding his suggestions as unsound in favor of reading Judge Mahady's opinion, one well-grounded in law and based on the actual facts or lack thereof.

Suggestions/Remedies by Author

1) **Wait on actual evidence of harm or bad acts**.(i.e. good faith presumption applies to all)
2) **Rely on judiciary, not press or public opinion.**
3) **Don't trust anti-cult movement (ACM) data as true or reliable.** (Bromley 1998, Palmer 1998)
4) **Gain understanding of new religious movements. Scholars are more objective than press or private interests. (**e.g., non-reliability of defectors, apostates; financial or discriminatory motives of ACM have effect of denying human rights)

Conclusion

What the State wanted to do and did do in Island Pond Vermont in 1984 was wrong and it violated fundamental human freedoms. What John Burchard wrote in 1984 and 1992 shows

clearly that he did not receive direction, authority and leadership of the court whose purpose is to rule over state government and guarantee that they follow laws and live up to the Constitution. The courts ruled in 1984 that the State of Vermont was the lawbreaker.

Social workers need judges and nations need judges to apply the law so as not to be governed by public opinion or subjective bias. The International Convention of Human Rights upholds a standard, so that governments are not run by public opinion polls. Either government rules over the anti-religion movement (ACM) and its unjust mindset or the anti-religion movement will run the government. It is that way in France today. There will be no justice at all or it will be in serious jeopardy.

Contrary to Burchard's theory of "cooperation" with the State preserving religious freedom, quite the opposite happened when Twelve Tribes' members cooperated with the government in France. Members gave interviews, answered questions, performed tests and allowed officials to see the children. Authorities found no evidence of harm, but nevertheless want to take the children because their parents are members of the Twelve Tribes and the national government has put them on a black list without just cause. Maybe somebody in France believed what John Burchard wrote.

People like John Burchard need to be taught how to give adequate weight to fundamental freedoms and equal protection of the laws. He practiced and now preaches "a different law applies if you have a different religion." This is not the path we as a world polity and a world community want to travel on, either globally or locally.

Citizens need the checks and balances of a judiciary to have stable government. The executive and legislative branches need the judiciary to check the execution of state authority and to not go past legitimate boundaries between religion and government. Laws need to be

within parameters of Constitutional limits. Otherwise men in positions of power will control what people believe and what people do, beyond what is given to them as the *limited* power of government.

Vermont ignored those limits in 1984. Let us not follow the direction of one of the men who lead that illegal charge and continued to defend his actions after the courts of the land found his actions "the worst state-sanctioned violation of children since Herod the Great." John Burchard still believes worse violations by the State are necessary "to protect the children." He has not heeded the direction of the court who judged him. His recommendations reflect heedless disregard of human rights, while paying lip service to them. He does not have the credibility to speak as one who is concerned with safeguarding religious liberty. Let us not be deceived as our freedoms are eroded.

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