

# A hustler, a preacher and the court

Dec 1987 — Feb 1988

# Contents

Jerry Falwell . . . . .	4
A huckster? . . . . .	4
Falwell enemies . . . . .	5

The reason why this nation must have an intelligent, sensitive and reasonable Supreme Court capable of rising above political and personal prejudice needs no clearer illustration than the legal struggle going on between heaven and hell.

On one side is the heavenly Jerry Falwell, radical right-wing political preacher of the highest order, and on, the other the hellish Larry Flynt, bizarre magazine smut peddler of the lowest variety. As is often and unfortunately the case, the 1<sup>st</sup> Amendment rights of the nation's press and everyone else appear to be caught up somewhere in between.

The legal issue here ought to be relatively simple: Does Mr. Flynt have a constitutionally protected right to depict Mr. Falwell in his magazine as the practitioner of an obscenity? Specifically, one common to the vocabulary of street gangs and arguments on the floor of pro basketball games and the Chicago City Council?

This is more or less what the distinguished Rev. Falwell was called by the less distinguished Mr. Flynt in a Hustler magazine cartoon parody suggesting that the preacher's first sexual experience came in an outhouse with his mother. Without using the word, Mr. Flynt engaged in name-calling, which is neither a libelous action nor one that is automatically protected by the 1<sup>st</sup> Amendment. For example, no one has a 1<sup>st</sup> Amendment right to make an obscene telephone call, nor to shout "fire" in a crowded theater.

Lower courts found Rev. Falwell's allegations of libel baseless because the parody did not fit the legal definition of libeling a public figure, basically the malicious, deliberate or careless spread of a damaging falsehood. But the Virginia trial court did award the evangelist \$200,000 in damages for "emotional distress," which Mr. Flynt is seeking to have overturned.

He claims his offensive and tasteless behavior is protected by the same 1<sup>st</sup> Amendment rights that protect editorial writers and, more pointedly, political cartoonists, whose satirical artistic commentary, itself a form of name-calling, has become a vital part of democratic political debate.

If Mr. Flynt, in a legitimate expression of opinion, can't depict Rev. Falwell in a fashion that calls him a vulgar name, his lawyers argue, then "Doonesbury" cartoonist Garry Trudeau can't call Vice President George Bush a "wimp," which he does regularly, and The Tribune's Jeff MacNelly can't depict President Reagan as a dummy, which he often does.

This drags newspapers, magazines and cartoonists into the muddy corner with the disreputable Mr. Flynt, which is where we are now all lying, uncomfortably, alongside a man who once appeared before this very court wearing only an American flag as a diaper.

The reason we are there, however, is a lot more important to the American people than Mr. Flynt is to any of us, or to anyone other than himself. By stretching all bounds of reason and taste, he has tempted the court to draw sharper lines and assume a greater role as arbiter of what can be spoken or written in political or social discourse. If the court does not draw the line, anything goes.

If it does draw one, which some of its members seem anxious to do, the resulting decision could thwart legitimate political satire and restrict 1<sup>st</sup> Amendment freedom even further in an area where as a nation it should be expanded. There are few politicians in this country who have not suffered “emotional distress” at the hands of name-calling opponents. And where does it say in the Constitution they should be spared that, anyway?

It must be hoped that this court realizes that our political system should remain free enough to tolerate public cockfights between political loonies, even when one cloaks his politics in sermons and the other is a vulgar wretch whose whole reason for being seems to be uncloaking everything.

And we can only hope, too, that these characterizations and opinions are still protected by the 1<sup>st</sup> Amendment after the two get through trashing it.

## **Jerry Falwell**

CHICAGO — In its Dec. 6 editorial, The Tribune dismisses Rev. Jerry Falwell as a right-wing radical and political looney. This is the same Rev. Falwell whose Thomas Road Baptist Church funds: a home for unwed pregnant teenagers, providing free care, schooling and even adoption of their babies; a home for alcoholics; a center which furnishes groceries and clothing to poor families; a prison outreach service; a senior citizens ministry; an inner-city ministry, including support for a drug rehabilitation center; a toll-free number that anyone, anywhere in the U.S. can call for help.

Additionally, Rev. Falwell monitors the running of an also accredited university and conducts a weekly television service.

To insinuate that such a remarkable individual is on the other side of the same coin as Larry Flynt is at best careless and at worst irresponsible.

**Dennis D. Kendzora.**

## **A huckster?**

LOMBARD — In answer to Mr. Kendzora’s letter (Dec. 18) defending Rev. Jerry Falwell, I would answer that anyone who has open-mindedly viewed Mr. Falwell’s program, heard his unctuous sermons, witnessed his self-pitying pleas for cash, his hateful better-dead-than-red rhetoric, self-congratulatory righteousness must recognize that this religious leader is a modern-day equivalent of the early Pharisees and Sadducees.

By subjecting priceless Christian values to commercial techniques of persuasion and manipulation in hopes of promoting a narrow political agenda, he has become to God and religion what Mr. Flynt is to the gift of human sexuality.

**David Kaczynski.**

## Falwell enemies

PAXTON, Ill. — In response to the article by David Kaczynski as well as the cartoon by Viskupic, Newsday, in the Voice of the people.

I may not agree with everything Dr. Jerry Falwell does, as he seems sometimes to go where angels fear to tread. However, he is accountable to God and it is obvious he is sensitive to God's leading. This does take money and a lot of it, just as do many endeavors. Best of all, Dr. Falwell stands between hell and heaven regardless of ethnic background and is constantly pointing people to heaven.

It's easy to get at odds with some who are supposed to be in a position of leadership. The PTL ministry never impressed me; yet the reproach it brought on Christianity has shocked me.

President Reagan is providing leadership that has once again made me proud to be an American. Yet it surprises me how the so-called news media are constantly trying to discredit nearly everything he has done, or is doing: Had Judge Bork's nomination for the Supreme Court gone before the American people, he would already be serving as a justice.

America's worst enemies right now are those like the American Civil Liberties Union and similar organizations, and those in other positions of leadership, including Congress, who have anti-Christian convictions.

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Chicago Tribune, part 1, part 2, part 3 & part 4.

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