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ON RELIGION

A Man's Existentialism, Construed as Blasphemy

By Samuel G. Freedman

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Back in the fall of 2007, with only the most practical motives in mind, George Kalman took his pen to the standard form for creating a limited liability company in Pennsylvania.

Mr. Kalman had already formed one such corporation for his information-technology business and now wanted the same status for his sideline as a filmmaker, the better to write off expenses on his income taxes.

The first line on the document asked Mr. Kalman to supply his chosen

corporate name, and he printed it in: I Choose Hell Productions, LLC. In a personal bit of existentialism, Mr. Kalman believed that, even if life was often hellish, it was better than suicide.

A week later, the daily mail to Mr. Kalman's home in the Philadelphia suburb of Downingtown brought a form letter from the Pennsylvania Department of State. His corporate filing had been rejected, the letter explained, because a business name "may not contain words that constitute blasphemy, profane cursing or swearing or that profane the Lord's name."

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Mr. Kalman felt quite certain, he recalled here the other day, that the letter was some kind of prank. Nobody had even signed it. And though he did not know it at the time, Pennsylvania had granted corporate designation to entities like Devil Media, Vomit Noise Productions and Satanic Butt Slayers.

After a couple more readings, though, Mr. Kalman realized that the rejection was genuine. Pennsylvania, it turned out, indeed had a law against blasphemy. In the short term, Mr. Kalman successfully filed for incorporation as ICH Productions, LLC. In the longer run, he put in a call to the state branch of the American Civil Liberties Union and set in motion a challenge to the state law.

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"They're actually imposing their religious beliefs on me," said Mr. Kalman,

49. “They’re saying that you either believe what we believe or we won’t let you live your life.”

Narrowly speaking, the suit filed last month in Federal District Court in Philadelphia — *George Kalman v. Pedro A. Cortés*, Pennsylvania’s secretary of state — seeks to have the state law struck down as unconstitutional. More broadly and more interestingly, the litigation has lifted the rock off an obscure remnant of American jurisprudence: the continuing existence of blasphemy laws.

Such statutes remain on the books in Massachusetts, Michigan, Oklahoma, South Carolina and Wyoming in addition to Pennsylvania, said Sarah Barringer Gordon, a law professor at the University of Pennsylvania who is an expert on blasphemy statutes.

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While they are “arcane and rarely enforced,” as Professor Gordon put it in an interview, the laws provide the states with a “symbolic power” of moral condemnation, as well as the prospect of actual punishment. To cite just one example, Oklahoma’s statute authorizes as much as one year in prison and a \$500 fine for anyone convicted of blasphemy.



George Kalman ran up against Pennsylvania blasphemy laws in naming his film company.

Jessica Kourkounis for The New York Times

The problem, at least for opponents of these laws, is that in a nation without a state religion and with a formal separation of church and state, a nation with a panoply of faiths and a growing proportion of nonbelievers, blasphemy is defined by religious, often overtly Christian, terms. Several of the state statutes explicitly outlaw verbal attacks on God, Jesus Christ, the Holy Ghost and “Scripture.”

Pennsylvania’s law may be the most idiosyncratic of all, because it covers

only the matter of corporate names. And, rather than being a dusty vestige of the 19th century, it was enacted (and overwhelmingly so) only in 1977. A Democratic legislator, Emil Mrkonic, wrote the bill after a mail-order fire-arms dealer filed incorporation papers for the God Damn Gun Shop.

The statute provides no guidance on what exactly constitutes profaning the Lord's name. Nor does it specify who will make that decision, or how it will be made.

"The fact that there's some bureaucrat in Harrisburg who decides what's blasphemous is outrageous," said Thomas H. Lee II, a lawyer with the firm of Dechert LLP, who is handling the case for the A.C.L.U. pro bono.

As for the plaintiff, Mr. Lee added: "Whose Lord are they talking about? There are Lords in so many religions in the world."

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Charlie Young, deputy press secretary for the Pennsylvania Department of State, said the attorney general's office was still drafting a formal answer to Mr. Kalman's suit. In the absence of such detail, Mr. Young issued this statement: "The Department of State is upholding the law of the commonwealth, which was established by the Legislature."

Subjectivity has long been central to blasphemy laws in the United States. The big difference in their 19-century heyday, Professor Gordon said, was the largely unquestioned assumption that the United States was a Christian country and that "when you insulted God and Jesus, you insulted the

people.” These early statutes also conflated blasphemy with forms of sexual immorality.

During the 20th century, however, separate laws emerged to deal with pornography, profanity and indecency. A landmark Supreme Court decision in the 1952 case of *Burstyn v. Wilson* struck down New York State's ban on the Roberto Rossellini film “The Miracle,” which had outraged the Roman Catholic hierarchy with its portrayal of a peasant who thinks she is the Virgin Mary.

“It is not the business of government in our nation,” the court stated in its decision, “to suppress real or imagined attacks upon a particular religious doctrine.”

What mystifies Mr. Kalman a half-century later is that he had not even intended such an attack. He said he counted both atheists and born-again Christians among his friends and described his own attitude about God as “don't know.”

His views on the Constitution, however, are plenty clear.

“When you read the First Amendment, this is something you can be proud of,” he said. “If you care about the human condition, then you care about the First Amendment.”

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