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LAW

Supreme Court rules against Krishna cult

by Sanford Roberts

A recent cartoon in the *Philadelphia Inquirer* picturing a grinning Supreme Court justice pinning a "Bug Off" sign on a gaggle of hapless Hare Krishnas tells the story. On June 22, 1981, the Court decided their first case involving the much-hated Krishna cult and determined that the cult must abide by the booth restrictions imposed by the officials of the Minnesota State Fair.

There is a great temptation to enthusiastically applaud the Court's decision in *Heffron v. International Society of Krishna Consciousness*, as a remedy for the pestilential Krishna swarms who presently infect the nation's public places. However, the Heffron decision could be misused to jeopardize legitimate free-speech activity. We use the phrase "legitimate free speech" to distinguish the purpose and conduct of organizations interested in promoting public discussion of vital political and religious issues from kook groups like the cow-worshipping Hare Krishnas. The litigious Krishnas have cynically used the First Amendment as a monetary scam against the general public to finance the cult's nefarious activities, which include gun- and drug-running.

The reason why the Hare Krishnas have spent hundreds of thousands, perhaps even millions of dollars litigating against the imposition of a "booth rule" is quite simple. Like any good thief, a Hare Krishna must be as light on his feet as he is with his fingers. Confining the cult's alms-beggars to a well-marked booth will preclude the Krishna tactic of posing as solicitors for the Catholic Relief Mission or National Candy Week or the American government or any other dozens of impostures. It will also preclude another favorite Krishna fund-raising tactic of simply snatching money from the unwary and disappearing into the crowd. The Krishnas call these techniques "Transcendental Trickery" and indoctrinate their alms-begging recruits in this methodology.

An examination of the text of the *Heffron* opinion indicates that the Court was careful to define the circumstances where the booth rule is appropriate. For instance, booths are appropriate to the state-fair situation because everyone at state fairs is required to use a booth for the display and marketing of their wares. It is also claimed that booths are necessary for the effective functioning of the fair, and that if everybody was afforded the same unrestricted right the Krishnas sought, chaos would be the certain result.

But the Court noted that city streets, for example, are another matter. "A street is continually open, often uncongested, and constitutes . . . a necessary conduit in the daily affairs of a locality's citizens. . . . The flow of the crowd and demands of safety are more pressing in the context of the Fair. As such, any comparisons to public streets are necessarily inexact."

This distinction leaves open the possibility that future Court decisions could determine that other First Amendment forums, such as airports, and bus terminals, are more akin to public streets than state fairs are, and therefore are not covered by the *Heffron* precedent.

One explicit safeguard which the Court built into *Heffron* was the notion that the establishment of a booth system mandated reasonable access to the general public. As Justice White wrote of the situation at the Minnesota Fair: "The booths are not secreted away in some nonaccessible location but are located within the area of the fairgrounds where visitors are expected, and indeed encouraged to pass."

The potential First Amendment problems arising from *Heffron* are not found in the legal technicalities of the opinion in that case. Rather, the problems flow from certain public officials and administrators who need very little pretext to harass First Amendment activity. These public "servants," motivated either by bureaucratic laziness or political animus, see *Heffron* as giving them the right to impose greater restrictions on free speech.

An example of this behavior occurred in June where the officials of the Pittsburgh International Airport denied members of the International Caucus of Labor Committees (ICLC) their First Amendment right to solicit money for political purposes. This denial was predicated upon a totally inaccurate, and probably deliberate, misreading of *Heffron*.

Any administrator who rubs his hands at *Heffron* expecting court approval for repressive policies should think twice.

Surprisingly enough, the Burger Court has, over the past 10 years, facilitated the pleading of civil-rights suits against local and state officials. Under 42 USC 1983, any person acting "under color of state law" to deprive a citizen of his or her constitutional rights is liable for monetary damages. Section 1983 provides a remedy for persons victimized by any adminstrator who abridges constitutional liberties.

In the post-*Heffron* era, certain overzealous officials may get a quick and severe lesson in constitutional law.

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