

of all the obstacles posed by outmoded legalism. Individual rights and protections must, according to this philosophy, be superseded in the interest of defeating domestic tyranny and exploitation. And when such protections have been undermined in one area of law, how much easier it is to accept their dilution in other matters—in drug cases and rape prosecutions, in matters of domestic violence and sexual harassment. Soon we are left with a world in which the only offenders with their rights intact are professional robbers and burglars, whose atrocities seem to offend us so much less than the crimes of ever-fluctuating social morality.

We might expect a clear political demarcation here, with liberals pushing measures that advance the feminist agenda and the therapeutic state and conservatives upholding the long-established boundaries that defend the individual and the family. In practice, the lines have long been hopelessly confused, with the Supreme Court offering a fascinating microcosm of the dilemmas and contradictions in contemporary conservatism.

In 1988, the case of *Coy v. Iowa* struck down a state law permitting children to testify from behind a screen. Justice Scalia (a celebrated conservative and a Reagan nominee) wrote tellingly that “it is difficult to imagine a more obvious or damaging violation of the defendant’s right to face-to-face encounter. . . . Face-to-face presence may unfortunately upset the truthful rape victim or abused child, but by the same token it

may confound the false accuser or reveal the child coached by a malevolent adult. It is a truism that constitutional protections have costs.”

Paradoxically, it is this same Court that in 1990 decided by a 5-4 majority to *uphold* the radical principle of televising children’s testimony in abuse cases (*Maryland v. Craig*). This case found Sandra Day O’Connor in the familiar position of defending whatever regulation seemed convenient to an administrative body, while Scalia responded with a scathing dissent of the sort that we traditionally associate with extreme liberals like Thurgood Marshall and William Brennan. (Part of his philippic noted that “seldom has this Court failed so conspicuously to sustain a categorical guarantee of the Constitution against the tide of prevailing current opinion.”)

We could perhaps speculate on how and why Antonin Scalia and his fellow dissenters found themselves in a minority on what is alleged to be a conservative court. The same questions must be posed in the wider society. Why has there been so little opposition to the “Believe the Children” ideology, with all its nefarious consequences? Why have so many conservatives been willing to acquiesce to such a radical transformation of American criminal justice and to such an evisceration of constitutional protections? And when did conservatives start believing that therapists and state agencies were the best judges of the conduct and morality of the family?

c

The Penny Arcade, Carmine Street

by *Gloria Glickstein Brame*

He’s losing her at the penny arcade
where the play and the outcomes turn
on small change. Formed of flattened tin,
the ducks that swim in straight lines
don’t even dent when hit. He raises the gun
to his cheek, targets the simple things
he shoots to kill, poised as St. Julian
before a powerful assault of cats, equipped
for violence, knowing what it is
to be a man, and how a her reacts to a him.
The obligations of being born
father and son make him light with fear.
He cocks his weapon, sets the sights,
discharges three times. Bullets go awry.
She shrugs at the unwon prize
and touches his arm as if to say,
Not everyone succeeds every time.
He puts another dollar down
and lifts the barrel above her head,
concentrating on her encouragement,
squints, aims surely, and misses thrice again.
She grins uncomfortably at passersby and
notices his blue jeans are too big;
his studded cowboy shirt doesn’t quite fit.

Law in Lehi

A Case of Abuse

by William N. Grigg



Anna Myreck-Wroblecki

Lehi, Utah, is somewhat familiar to those who have seen the movie *Footloose*. The small Mormon community provided Hollywood with the perfect setting for a tale of adolescent rebellion against parental and religious authority. Yet shortly after the movie's release Lehi's pious image was ruptured by a child abuse scandal.

One morning in the summer of 1985, Lehi president Shelia Bowers left her three children with their aunt. When she returned for them, the aunt expressed concern that the children had been "playing dirty"—they seemed a bit too sexually inquisitive. She suggested that the mother take them to the Intermountain Sexual Abuse Treatment Center (ISATC), where they were examined by therapist Barbara Snow. It took Snow little time to diagnose the children as victims of sexual abuse. According to her, the children had named their babysitter as the abuser.

At the time, the Bowers' regular babysitter was the teenage daughter of Keith Burnham, a local Mormon bishop. Other parents who employed the Burnham girl as a sitter took their children to be examined, and accusations began to multiply. Some of the children accused Burnham himself, as well as his wife, of "touching" them. Snow contacted Robert Smith, a psychologist who served as a counselor to Burnham's LDS congregation. Snow informed Smith that children had been molested in Lehi and that the Burnham girl was the chief suspect. Smith was told to get a confession from the Burnham girl without telling her parents, as the parents were also under suspicion. When Smith was reluctant to follow Snow's instructions, the therapist threatened to call in the local print

and television media, the sheriff, and the ACLU.

In testimony given later on the witness stand, Smith recalled, "I did not want to do what Snow asked. I realized I had no permission or authority to talk to the children either in my professional or ecclesiastical position." Snow instructed Smith to disclose the accusation to a friend of the Burnhams, thus avoiding a direct confrontation with the parents. Smith ignored Snow's imperious directives and spoke directly to Bishop Burnham. When Burnham was informed of the accusations against his daughter, he readily agreed to let both of his children speak with Snow.

But Snow was not satisfied with Burnham's cooperation. She contacted Smith again, upbraided him as a "fool" and thundered, "You have just blown this case." Shortly after Burnham agreed to send his children for examination, officials from the State Division of Family Services pulled up to his driveway and collected his kids. The children were placed in a foster home, where they were subjected to a three-week regimen of examinations. Burnham had not been informed that his agreement would be construed by the state as a license to abduct his children. He recalls his frustration as his children were seized by the state: "What do you do? They take your children away. They put them in foster homes. You can't see them. There is no way to fight back."

After a three-week ordeal of separation and scrutiny, the state sent the Burnham children back to their parents with a perfunctory written apology. No evidence had been found of any physical, sexual, or emotional abuse; in fact, the children appeared to be products of an exemplary home. But despite the elimination of its primary suspects, the state's investigation of Lehi continued.

The Lehi Eighth Ward, in which the Burnhams' LDS con-

William N. Grigg is a columnist for the Daily Herald in Provo, Utah.