

Religious claims, public interests

From the Editors in the [July 28, 1999](#) issue

When freedoms clash—when we're not sure where my rights end and yours begin—we customarily turn to the courts to resolve the matter. And the courts are likely to get an interesting set of cases connected with the Religious Liberty Protection Act, which passed the House of Representatives in mid-July and will be considered by the Senate this summer (see the report on page 736).

The Religious Liberty bill has a noble and sensible goal: to protect religious practice from unnecessary government regulation. The bill requires the state to demonstrate a "compelling" public interest before interfering with religious activities, and it calls on government to find the "least restrictive" means of pursuing that public interest. With this law on the books, government agencies would be less likely to require Jewish students to doff their yarmulkes, or to insist that Hmong corpses be submitted for autopsies, even though autopsies violate the beliefs of immigrants from that Asian culture. The bill would also help in the case of the Orthodox Jewish synagogue in Pennsylvania whose building plans were rejected by a zoning board because of traffic concerns—even though the Orthodox do not drive on the Sabbath and would be walking to the synagogue. And the bill would assist congregations that are now prevented by zoning laws from using their buildings for soup kitchens or shelters.

Some critics of the bill worry, however, about some of its other implications: Will such protection of religion mean that landlords can invoke religious reasons for refusing to rent an apartment to gays or to some minority family? Does the religious person's right to practice his or her faith in such a case outweigh the gay couple's right to housing? Other critics are concerned that the bill will impose an impossible requirement on governments, forcing them to make an endless series of accommodations to widely diverse religious claims.

Despite such uncertainties, we support the Religious Liberty Act because it will help ensure that religious claims at least get a serious hearing. Achieving that goal is worth the attendant complexities.

At the same time, we think religious people should acknowledge that though religious claims need to be heard, they don't always need to triumph. It would, indeed, be a theological mistake for congregations or individuals to regard the religious nature of their activities as a legal "trump card" to be played against other claims. After all, religious people and congregations are also citizens and neighbors who care about the public interest—and they should want to be good citizens and neighbors.

Consider the case of a large church that plans to move into a residential area, bringing with it thousands of cars that will snarl traffic and disrupt neighborhood life. Zoning officials would have good reason to question or perhaps reject those plans according to the public interest as codified in local regulations. It would be unwise in such a situation for the congregation simply to claim that its religious practice is being illegally burdened by those regulations.

The Religious Liberty Act promises to give religious people an important tool for protecting their religious practices. But it will require the courts to be shrewd in applying it, and religious people to be wise in invoking it.