

# **CONVICTION** **versus** **PREFERENCE**

*by Attorney David C. Gibbs, Jr.*

# Conviction versus Preference

taped from a seminar lecture  
by Attorney David C. Gibbs, Jr.

*Note: The message you are about to read has been circulated widely in its taped form. Because of the unusual effectiveness God has been pleased to give it as a lecture, we have retained the conversational style of the message here in its printed form.*

*It is our prayer that the printed version will also touch many lives.*

Wallis C. Metts  
Media Director  
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The court says a very particular thing about our beliefs and it is at this point that your testimony in the courtroom becomes quite critical. The court says a man cannot hold those beliefs if he cannot describe them. The court said a belief is not a hunch. It is not a feeling, it is not "*it seems to me*". We have people who go to the witness stand and say, "*what do you believe about this?*" and they will say what they believe.

"*Well, why do you believe that? Can you show me in the Word of God?*" And they will say, "*I don't even know if it is in the Word of God but it sorta seems to me. . . .*" and the court says that the problem with "*well it seems to me*" is that feelings change rapidly and as a consequence they are not going to honor hunches, they are not going to honor feelings, they are not going to honor "*it seems to me.*"

You must be able to take these beliefs in the Bible and make them oral. You must be able to break them down. The Court says you don't need to be eloquent. We can bring a man up here who would be a teacher in your Bible department, for example, and he might be able to systematize his beliefs. The court says that is not required, but you must somehow be able to make your beliefs vocal.

The second thing the court said is that you must be able to have a knowledge of those beliefs. This becomes important because we like to hide behind a title. We say, "*I am a separated fundamentalist.*" "*I am a Christian.*" Those are three descriptive terms. Now tell us what that means. It is not simply enough to tell the court a general term. You must tell the court what those terms mean. In this matter of beliefs and believers, the Court suddenly realized there had to be a test. The court said there must be a way that we can determine which beliefs are to be upheld and which beliefs will not be honored and protected by the First Amendment.

In 1972 the court came down with the test. And ironically, they came down with the test in the case which involves Christian education. A man who lived in the State of Wisconsin by the name of Yoder was an Amishman. And he told the state of Wisconsin, "*I am not going to send my children to your schools anymore.*" The state of Wisconsin said, in effect, "*you can't do that. You have to send your children to our school.*" He said, "*I don't think you hear me, I am not going to send my children to your school.*" They said, in effect, "*Mr. Yoder, if you don't send your children to our school we will have to sue you. Do you want us to sue you?*" He said, "*No.*" They said, "*have you ever been sued before?*" He

said "No." They said, *"Send your children to our schools."* He said *"I don't think you heard me. I am not going to send my children to your schools."*

I don't know if you have ever talked to a stubborn Amishman, but you might as well talk to the back side of a barn for the result you are going to get. They said, basically, *"Look, If we sue you and we win you could go to jail."* He said, *"I don't want to go to jail."* *"Put your children in the school."* He said *"I am not going to send my children to your school."* They said *"If you don't do it and we win the court case you will be put in jail and once in jail you could even lose your children."* He said, *"I wouldn't like any of that."* Then they said, *"Well, put the kids in the school."* He said, *"I don't think you understand. My religious beliefs prohibit that I do that."*

They took him to court and he didn't fare so well. He lost. And they said, *"Now, you had your day in court, send your kids to our schools."* He said, *"I am not going to."*

He found out a very interesting thing. He didn't give up. He lost his appeal and they said, *"Send your kids."* And he still said, *"I am not going to do it."* Finally, he got to the United States Supreme Court and they said to Mr. Jonas Yoder, *"You don't have to send your kids to that school because the First Amendment protects you,"* and they laid down the test that was to be used on all subsequent cases to determine which beliefs are to be protected and which are not to be protected.

The first thing the court did in defining the test was to say this, *"Every single religious*

*belief is one of two types. It doesn't matter what your belief structure is, or who you are, every single religious belief you have is one of two types."* They said it is either a **conviction** or a **preference**. The court said that is all there is. We don't find that there is any other type of beliefs.

Let us define the two for you. Because, bear this in mind, in the United States of America only convictions are protected by the constitution. Preferences are not.

- Let us look at a **preference**. That is a very, very strong belief. It is a belief that you hold with great intensity and strength. In fact, let me tell you how strong that belief can be. That
1. belief can be so strongly held by you that you go into full time service in the name of that belief. You can be a minister of the gospel, a Christian school teacher, or a missionary.
  2. That is a strong belief. The second thing that makes this belief strong is that it is belief that you can hold with such intensity that you give all of your wealth to it. I don't know very many people who have given everything. The court says you can do that and still have only a preference.
  3. The third thing is that your belief can have such strength and fiber to it you can be energetic in proselyting other people. You can stand on the street corner and witness. Every time there is Thursday night visitation you are there. Saturday morning you have a zeal toward spreading the gospel. The court said you can have all of that zeal and still only have a preference.
  4. Then notice one final thing. They said you can be so convinced this belief is good that you can want to teach it to your children. Now

that is a very important thing. I sat next to a man on a airplane one day and he was telling me all about his troubles with his business and how his personal life had degenerated. And then we started talking about his son, and he said he really wants his son to go to the same school he went to and undergo the same training he had, and run the same business he was running. And I asked that man, *"Did running this business and going to that school bring you any happiness or satisfaction at all?"* He said, *"No, none at all."* I said, *"why would you want that same thing for your child?"* He said, *"I don't know, I just thought it would be a good idea."*

I think he wished on his child the same thing that had been wished on him. We have the same problem with our faith. We hold it very dear and as a matter of that endearment, we want our children to have it because we know that faith can take them to a home in heaven and give them a life that is meaningful and christian. The court said you can believe all of that and still only have a preference. Here is what makes a belief a preference. **It is a very strong belief but it is a belief that you will change.** You prefer it. That is why we call it a preference. But you will change that belief under some circumstances.

- The courts have reviewed these circumstances and have found some circumstances that cause people to change their beliefs. Let's talk about them. Circumstance number one is called **peer pressure**. A minister studies the Word of God and says, *"Here is something I know I must do."* He resolves in his heart that he is going to do it. Then he goes out to his friends, other ministers, people in his congregation and

says, "*this is what I am going to do.*" And the other ministers say, "Hold on just a minute. You are right. We don't say that you are wrong. But couldn't you tone it down just a little bit? Couldn't you fix it so that we could cooperate with you? Couldn't you come around just a little bit so that is not so offensive to us and maybe you could still get done what you wanted to do." That minister said, "*This is what I believe,*" and then little by little he bends. And he proves that what he first said was a **preference**. He preferred it. He wanted to do it. He resolved to do it. But he changed. The Court said that if you can change that belief, that belief is a preference.

Now bear this in mind. If a person can ever show you from the Word of God where you should change something then you must change it. But we are talking about peer pressure causing good men to change. The court said if that will change it, it is a preference. There is another area we see peer pressure all the time. Ministers come to us and say, "I agree with everything you are saying but how am I going to go home and sell that to the troops back at the church? The people in the church are not going to agree." That man knows what he believes is right but the pressure of the people causes him to bend. The court said if you can do that you have a preference.

- 2 Secondly, they noted a cause of change is a **family pressure**. That is probably one of the strongest pressures I know of. A man says, "This is what I am going to do," and his wife says, "Please don't. You know what is right, but please don't. We just got everything settled, let's not blow it wide open again." And as a consequence that man changes his

beliefs. The court said if **family pressure** will cause you to change, your beliefs are **preferences**.

- 3 Now there is a third area we see is a strong pressure and brings out preferences, and that is a **lawsuit**. I know a lot of men who will say "David, I am for this but I am just not going to get sued over it. Can you imagine what they are going to do if they sue us, Dave?"

Back in the Lord's day they had the scribes and the pharisees. The Scribes are still alive today. They run the newspapers. And these men know they are going to be hung by the newspapers. They know that most of the people in their church are not going to understand why they are taking this stand that caused them to be sued. They know of families they are going to lose.

Everyone likes to talk about Levi Whisner and his great victory in Ohio. Everyone likes to talk about Roy Forrest and his great victory in Concord, New Hampshire. What nobody likes to talk about is men who have churches of about one hundred and they reduce to twenty. And a man with a church of 350 to 400 reduced to 60. Now would you do that, or would you say, *"David, I'm just not going to take a stand that is going to cause me to get sued because I don't want to see that happen."*

If that would cause you to change your beliefs then your belief was a **preference**.

- 4 The next area the court noted that caused people to change was **jail**. And I know in our circles today that we like to speak of jail very lightly. People say that jails are souped up holiday inns. They have just not seen enough jails. Jails are horrible places. One of the



things that we forget is that when you go there you are isolated from all your christian influence. They tell you when to go to bed, when to get up, when to eat, how to eat, when to stand, when to sit, when you go to the restroom. And suddenly you are thrown into the middle of that with brutal men. Men who normally relish the thought of breaking a Bible-toter. You are an offense to them there, and they hate you on their ground, and they are going to break you.

Now, would you go to jail for a matter of your faith? No one is going to understand why you have gone. If you read the histories of the great men of the faith, when they went to jail nobody understood why they went. Although many of the great men of the faith did go at one time or another. Would going to jail cause you to change your beliefs? If it would, then your beliefs are **preferences**.

Let me ask you one other question because it is right on point. A man says, "I will go to jail." You probably don't know what you are talking about, but none the less you say I believe I could. Would you, as a man, watch your wife go to jail? Levi Whisner faced that. Levi Whisner and his wife made plans for who was going to take care of their children while he and his wife were incarcerated.

The question is, what does that belief mean to you? If it is a **preference**, I want to do it but I have the right not to do it if I don't want to do it. The Court says that is not protectable. The last thing is, the Court said, "I suppose that a man has to be prepared to **die** for his belief." Is that belief changeable? You know, there are many things in this life worse than dying, and denying the faith is one of them. The court said, "Would you die for your beliefs?"

The court said a **conviction**, on the other hand, is a belief that you will not change. Why? What creates a conviction? The Court said only one thing. A man believes that his God requires it of him. A belief that is God ordered is a **conviction**. It is a matter of believing with all of your heart that God requires something of you. The court said, "when you believed that your God has required something of you, you will withstand all of the tests they have spoken about." The court said the first thing would be for you to decide, is your belief a **conviction** or is it a **preference**? Is it a belief that you hold that is God ordered, because **preferences** are simply not protected by the constitution.

Now the Court noted another interesting point about this, and it parallels with a story in scripture. About the three Hebrew children, Shadrack, Meshack and Abednego. The Court said a conviction is not something you discover, it is something you purpose. It is not something you accidentally come across, but something you purpose in your heart as a fabric of your belief system. Dr. Bob Jones used to say that he has never seen a man made by a crisis. Never. I used to think that was a strange saying. He said I have never seen a man made by a crisis, the crisis just exposes the man for what he already is and that is exactly what the court is looking at. The court said your convictions will be **purposed**.

If you study the history of the three Hebrew children in Daniel you will find that they did a strange thing. When taken into captivity, Shadrack, Meshack and Abednego purposed in their hearts not to defile themselves. It was something about which they determined with resolve. The court said your convictions must

be determined by you or else those convictions will not be there.

You will recall what happened to Shadrack, Meshak and Abednego. A golden image was erected, and all of the people were supposed to bow when the instruments played. The musical instruments played. The scriptures say these three stood erect. A question has to be asked at this point, *"Where were all the other Hebrews."* There were more than three Hebrews in the land. That is clear from the opening passages. Where were the other Hebrews? The other Hebrews were kissing the dirt making sure that they were in compliance with the King's orders. The scriptures say that the three Hebrew children were the only ones that stood erect. The court says this. If it is required of you that people stand with you before you will stand your beliefs are **preferences** and not **convictions**.

I have had preachers come to me and say, *"Dave, I believe that I ought to stand on this issue but I will only stand if you can get this or that conference to say that I should stand. If you can get this school organization to say that I should stand, get me some people to stand with me."* The question has to be asked, *"As great as those people may be, what do they have to do with what God requires of you?"* And the Court said that is a valid test. If other people have to stand with you before you will stand, your beliefs are **preferences** and not **convictions**. **Now you remember what happened. They were taken before the king and the king was upset. He said, "Do you know what you have done?" and before they could even answer he did a strange thing. He broke the law. He said, "I am going to give you a second chance. If the**

*next time, when those instruments play, you bend down all will be well. If not, nobody is going to deliver you out of my hands. You are dead men."* Now you know what I think we would have done. I think most of us would have said, *"Praise the Lord. We are alive, we are breathing. God has given us another chance,"* and we would have been excited. The three Hebrew children did not do that. Do you know what they said? They said, *"King, we don't have to be careful how we answer you because if you give us another chance or not, nothing is going to change. We have resolved we are not going to bow and that is not going to change."* What the three Hebrew children were telling the king is, *"This matter of our faith is non-negotiable."* The court said if you can discuss the negotiation of your faith, your faith is a matter of preference and not conviction because convictions are non-negotiable.

Why? How do you negotiate something that is God ordered? The court said you can't. So if they can get you into a dialogue where you negotiate, the court said this is a matter of **preference** and not **conviction**.

Now, recall what the three Hebrew children said, because it is the last point. *"King, we believe that our God can deliver us, but even if you throw us into that furnace and God does not deliver us we are not going to bow."* What they are saying to the King is, *"Whether we come out of that furnace or not our beliefs stand firm."* The court said if you must be assured of victory before you stand, your beliefs are preferences and not convictions. And that is a test they are narrowing in on more and more because more of our men are more concerned with **winning** then with

**standing.** You bear this in mind. In the Christian faith we do not fight for victory we fight in victory. We have already won. The only thing we are doing now is standing in that victory. When Levi Whisner, went to trial and lost, he still **won**. When he appealed and lost, he **won**. When he went to the Supreme Court of the State of Ohio and they unanimously said he was right, he was right all along. A court does not tell us whether we are right or wrong. We are right as long as we honor the Word of God and Levi Whisner recognized that.

We must also recognize that Levi Whisner stood in this country when no other man saw the issues, when no other man even cared to see the issues. He saw them and he won the liberty for all of us. He stood with no one beside him. All the tests of preference versus conviction were applied, he passed.

Now, the court said we have a problem, and the problem is that sometimes people don't tell the truth. In the courtroom, I don't know that I have ever seen anybody lie but I have seen some men who have been incredibly casual with the truth, and the court has recognized this. The court says there must be a way to know whether what you are saying is the truth or not. But how? How do we know if you have preference or conviction? The difficulty is that there are going to be lawyers like David Gibbs. And when you are ready to go to court, here is what I am going to tell you. When you walk in there, you make "conviction" your middle name. You get it out as often as you can. It doesn't matter what the circumstances, keep using the word "conviction." Well, the court said how do we know whether you have those convictions or not?

And then they came up with a test. This "conviction", they say, will always show up in a person's lifestyle. They said, *"what is on the inside of a man is always going to show on the outside of a man."* And if that is true, and we teach that it is true, they say, *"what we need to do is look at what is on the outside and recognize that it is there because of what is on the inside."* And the court said you do not have the right to say you have a conviction unless we can somehow see you live that conviction with some element of consistency.

Now, they began to apply the test and somehow people began to squirm. They asked *"Do they have this right?"* The Word of God says a strange thing. The book of James says, "Don't tell me about your faith, show me your faith." Because faith without works is dead. It is like a body with no spirit; it is all there but it is meaningless. Because the thing providing the fibers that give life to our faith, is our works. If that is absent, then it is all useless. So the court came back and said, *"We want to see your faith in action and we want to see it in order to prove that it is a conviction."*

Let me give you some examples. A man stands up and says, *"You ought to send your child to a Christian school. We believe that a Christian school is the only place for your child. It will be an education in the truth. We want you to send your child to a Christian school because it will make the Bible the foundation for his life. However, if you are not going to send your child to a Christian school, then you have your child be the best witness he can in the public school."* What have I just said? I have just said a preference. I have said I want you to send your child to a Christian



school. I prefer it, and you ought to, but if you are going to do the other then do the best you can. The court said that is a classic preference statement.

And so, what they are looking for is this. If we say that something is a matter of conviction, where do we get our convictions from? Where do we get all our beliefs from? We get them from the Word of God. Now, when a child comes to Sunday School for the first time what do we teach a child that it is to disobey the Word of God? We teach that child that it is a sin. The court says the opposite of "conviction" is "sin". And you must stand for that or else it is not a conviction. We really have nothing to take exception to, because that is consistent with our beliefs. If the Bible requires it, it is God ordered. If it is God ordered, it is a conviction. If it is a conviction and if God ordered it, what is it not to do it? It is a sin because it is disobedience to what God has ordered. And that is the classic definition of sin. So before you say something is a conviction you must be prepared to take a stand to say the opposite of that is a sin. If you say, *"I have a conviction about Christian education"* you must be prepared to say not to give a child Christian education is a sin. If you say, *"I have a conviction about certain matters of a Christian lifestyle-the refraining from the use of alcohol-"* you must say the opposite is a sin or it is not a conviction. A person who says *"I believe I ought to do somethings, but I think that I should be more tolerant, a little more open minded about this,"* he is saying a preference and the court says, **"make up your mind what you believe!"**

Remember what I said. The court said knowledge about your beliefs is critical in the

courtroom. You must be able to define what you believe. You must tell the court whether you hold them as preferences or convictions, and you must be able to explain to the court that the opposite of these convictions is a sin. What happens if you don't tell them it is a sin? We have this happen:

*"Pastor, do you believe that every child must receive a christian education?"*

*"Yes, I do."*

*"Well, Pastor, do you hold that as a conviction of your faith?"*

*"Yes, I do,"*

*"Well, Pastor have you ever told your people that not to give a child a christian education is a sin?"*

*"Well, no I haven't done that."*

*"Why haven't you done that Pastor?"*

*"I just haven't gotten around to it."*

*"How long have you been in getting around to it."*

*"Oh, a couple of years."*

Then they will say,

*"Pastor isn't it true the reasons you have never said that is because you were afraid of the effects of that? You were afraid that the public school teachers in your church would leave? You were afraid that the people who don't believe in Christian education in your congregation but are good givers might be offended? You were afraid of what the repercussions would be? Isn't that why you didn't say that?"*

Now, bear in mind, the man has taken an



oath to tell the truth in that courtroom, and he must now answer that question. The court said if you say you have a conviction make sure that you do. Otherwise the court becomes a very painful place to be trapped with those convictions.

Now in this matter of lifestyle consistency the court said one further thing. When we say "consistent practice" we mean reasonably consistent, not perfect. But one judge said it to me, I think, very aptly. He said, *"David, your people don't have to be perfect but they are getting to be awfully perfect in being imperfect. As a consequence I would like you to see if we can't match up the two I's. Life and lip."* And that is what a good part of every court case is about. Is what you say with your mouth practiced with your file consistently? Is it a conviction of ours that matters of pornography should not be viewed? Is it a conviction of ours that matters of obscenity should not be viewed? Is it a conviction of ours that unrighteous themes should not be exalted? That is, you take what is base and low and make it seem to be right and good and just. That is a conviction of the Bible. Is it a conviction of ours that righteousness should be exalted? You have seen godly characters made to look like fools. That is taking a righteous theme and debasing it. Are those convictions of ours? Those are all convictions upon which we place the Christian school movement.

I think if I were to ask most of you here, you would say the Bible teaches every one of those things. *"They are a conviction with me."* Why? Because the Bible requires it. Is it a sin to do it otherwise? Yes.

All right, they will ask you all of those questions I have asked you in the courtroom and

then they are going to ask you this, "Do you own a television." And you'll say, "Yes I do." "How much did that television cost?" "Five hundred dollars?" "Where do you keep that television? In the living room or in the family room?" "Why do you keep it there?" "We keep it there so that the most people can see it." "Now, answer me this about that television. Isn't it true that if you don't plug that television in and turn it on it is inoperable? That television cannot do anything to you until you do something to it. For it to reach you, you have to make it reach you, isn't that true?" "Yes, that's all ture." "Having said all of that, let me ask you this, on this television, do you ever hear obscenity? Do you ever hear someone cuss?" "Yeah." I had a preacher say to me the other day that he got rid of his television set. He said, "I was sitting in my living room and the thing swore at me." He said, "There ain't nobody going to sit in my house and swear at me." So he got rid of it. I know we know that it does, right? There's not a given evening that you can watch it, that it will not use, in your presence, profanity, obscenity.

"Is there any nudity, or matters of pornography?" You know if I were to come to your house and a woman dressed the way that the women on that set dress you would not let me in your house. You'd say, "You offend me by coming here with someone dressed like that. What's the matter with you? But we let them in on the electronic media and, in fact, we pay hundreds of extra dollars to get it in color. Do you, on that television, ever see unrighteous themes exalted?" "All the time." "Do you ever see righteous themes debased?" "Yeah" "And you have no problem watching those and having that in your

house on an instrument that you have to pay hundreds of dollars to get, that you put right in the most traveled portion of your house, and that you have to make it do it to you before it can do it to you?" What happened to our convictions? We have just showed the court that through our lifestyles the conviction that we mouth is not consistently practiced. In the courtroom the examination of the pastors and Christian teachers is predominantly centered on, "Do you live your beliefs?"

Now, bear in mind, the court said you don't have to believe anything. But if you say you believe something, and if you say that it's a conviction, then the court says you must live it, at such level that when we look at your life we can see it. You know what would happen if I stood here with a glass of alcoholic beverage, and I told you, "I don't believe in alcohol folks," and then I guzzled it? You'd say, "the man's crazy, he says one thing and does another."

That's exactly what's happening in the courtroom now. The court says these people say one thing, but they do another. Now I've just used the example of a television, but they will go into all the areas of entertainment, the use of your finances, the use of your time.

