

# BEACH BUZZ

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"Keeping Our Beaches Bare"

## The Case Against Skinny-Dipping

By Michael Kush

Naturists believe that government should not interfere with skinny-dipping and nude sunbathing at designated sites. According to a 2000 Roper poll, 80% of Americans are in agreement.

Therefore, on what grounds do those in opposition base their case?

### RELIGION

*"The United States was founded by Christians, as a Christian nation. Since my pastor tells me the Bible condemns nudity, it should be outlawed, period."*

It is unarguable that the majority of the nation's founders were Christians of various denominations. Yet the Constitution itself makes only one reference to religion: "No religious Test shall ever be required as a Qualification to any Office or public Trust". The First Amendment prevents government from establishing a state religion, or from interfering with the free exercise of religion. Why? George Washington, in a letter to the United Baptist Churches of Virginia, spoke of the need to erect "barriers against the horrors of spiritual tyranny" by the state, since every citizen should be "accountable to God alone for his religious opinions". Civil law should concern only our actions as they may demonstrably harm our fellow citizens; our actions as they may otherwise in anyone's opinion disagree with God's law should not be under the jurisdiction of the state. All Christians do not agree that the Bible condemns mere nudity. That a particular sect may condemn it as "un-Christian" or "irreligious" can in itself have no weight in civil law.

### MORALITY

*"Nudity is just plain immoral."*

Since our country is not a theocracy, one must base this claim not on any particular religious opinion or practice, but on "civil morality", by which I mean nothing more – and nothing less – than the restraint of actions that interfere with the right of any citizen to life, liberty and the pursuit of happiness. The question of whether mere nudity is immoral from this standpoint is the topic of the rest of this essay.

### SECONDARY EFFECTS

*"Nudity encourages other clearly illegal or harmful activities."*

***Does skinny-dipping produce "a clear and imminent danger that it will bring about forthwith certain substantive evils"? The words in quotes are those of Justice Oliver Wendell Holmes.***

This is the "guns sometimes kill the innocent, so outlaw guns" argument. Perhaps an even better analogy would be an argument to ban automobiles because irresponsible drivers sometimes use them to commit vehicular homicide – a harmful secondary effect. Surely the use of alcoholic beverages is another prime generator of harmful secondary effects – vehicle accidents and assaults – yet most of us distinguish between responsible and irresponsible use (and users). The reasonable solution in all these cases is the rigorous prosecution of the few transgressors, rather than to unduly limit the rights of all citizens. Does skinny-dipping produce "a clear and imminent

danger that it will bring about forthwith certain substantive evils"? The words in quotes are those of Justice Oliver Wendell Holmes, discussing the standard necessary for the government to limit First Amendment rights. I am aware that skinny-dipping is not generally considered as protected under the First Amendment. But I would suggest we extend Holmes' standard to formulate a fair test by which a free state would have justification to restrict any citizen's freedom of action: clear and imminent risk of real and immediate harm. If Naturists are then a class of citizens whose actions pose no special danger under this test, their right to practice skinny-dipping should then be protected under the equal protection provision of the Fourteenth Amendment. It is not enough to show that nudity may be incidental to an occasional evil act; the glimpse of shapely arm or a beautiful face alone, absent nudity, may be a sufficient inducement to evil for one of evil intent. Just as we do not consider the illegal and reckless actions of a few individuals sufficient grounds to ban automobiles or alcohol, there must be clear and ineluctable evidence that nude recreation necessarily poses a special evil to the body of responsible citizens. The evidence shows that this is not the case. The crime rate at Haulover Beach is now lower than it was before the Naturist beach was established eleven years ago. In April 2002, the Toronto City Council commented on the three-year pilot program of nude use at Hanlan's Beach: Regarding inappropriate behavior, "there have been no more incidents reported by the public on this beach than on any other beaches throughout the city." (They then voted unanimously to make the clothing-optional beach permanent. See story, page 5.) The evidence from hundreds of public



Naturist beaches throughout Europe also attests that nude swimming simply does not produce the harmful effects sometimes alleged.

## SPECIAL USE

*“If the state allows designated clothing-optional beaches on public lands, it is granting a special use.”*

If special use of public lands is forbidden, bulldoze the tennis courts, plant over the golf courses, and raze the marinas. If a public facility serves a segment of the community, it is a valid use of public land. The key is balance, and respect for the recreational choices of all user groups, including Naturists.

## IT'S HARMFUL TO CHILDREN

*“Viewing nudity harms children.”*

Children should certainly be protected from degrading pornography and sexual abuse. No good parent, Naturist or otherwise, would disagree. But how is a family nude swim harmful? The International Naturist Federation represents 33 million Naturists, many of whom participate in nude recreation as families. It is arguable that nudity experienced in this way, under parental supervision, lessens the lure for children to explore their bodies in unsupervised settings, which would be far more likely to lead to promiscuity. Responsible Naturist parents, like all responsible parents, teach their children tolerance, self-respect, and respect for others. There is no reputable study that shows that non-sexual nudity practiced by Naturist families harms the social, moral, or emotional development of their children.

## CUSTOM

*“Why can't these people just wear a bathing suit like everyone else?”*

If wearing bathing suits is the general custom of the last hundred years or so, skinny-dipping has been a traditional practice throughout history. President J. Q. Adams took a daily nude swim in the Potomac, and Teddy Roosevelt was an avowed skinny-dipper. Certainly, these were not immoral men who swam nude to offer sexual provocation and affront. Would they have understood all the fuss

today over nude swimming?

## COMMUNITY STANDARDS

*“Maybe it's okay in Europe, but our community has certain standards that we intend to enforce.”*

Community standards are often in practice the tyranny of a vocal minority with an agenda (and lobbying money) over the silent majority. A trivial example: laws prohibiting the sale of alcohol on Sunday. It doesn't mean I'm advocating public drunkenness to ask what real good such a law does, and what harmful acts it effectively prohibits? Other laws are already in place to handle the drunks who endanger the public peace and safety seven days a week; why prevent me from buying a bottle of Merlot for a quiet Sunday picnic? A hundred years ago, it was less likely that the local sheriff would have bothered skinny-dippers at a local swimming hole, than that the police would have considered a woman wearing today's typical casual wear, such as shorts and a halter top, as “indecently” attired in town. Does legislation making it criminal to uncover the genitalia, more than 2/3rds of the buttocks, and a few square inches of the female – but not the male – breast when swimming or sunbathing at the beach effectively protect the citizens from those of evil intent? Is a tape measure to be the gauge of our morality?

Naturists view the nude body as a neutral object, and believe that true morality does not inhere in our state of dress or undress, but rather in the mutual respect we owe to each other, as made manifest by our actions. We believe most American citizens would agree. May not the undue emphasis on “obscene” parts of the body promote rather than prevent the evil of personal disrespect that we all commonly seek to prevent? Whatever one may think of skinny-dipping, it certainly shouldn't be lumped with so-called “adult” entertainment, due to a difference in context, and a clear difference of intent on the part of the participants. It's noteworthy that Gypsy Rose Lee, commenting on the lure of strip clubs, is reported to have said: “It's not the strip...it's the tease”. Naturist beaches do not provide this element of the “tease”, and do not generate the same atmosphere

of salacious exhibition on the part of the performers and voyeurism on the part of the customers as found at a nightclub. As proof of this assertion, I would again refer to the actual evidence from Naturist beaches cited above.

Therefore, within the culturally diverse milieu of America, isn't it a fair and reasonable compromise on all sides to provide designated clothing-optional beaches for those who wish to swim nude, while retaining designated “textile” or clothing-required beaches for the use of others who object to nudity based on their own personal beliefs and standards – just as we now license and regulate, rather than ban outright, the possession and use of far more potentially dangerous guns, alcoholic beverages and automobiles?