

Church and State – Religious Liberty

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Preamble to the Bill of Rights

*Congress of the United States

begun and held at the City of New-York, on Wednesday the fourth of March, one thousand seven hundred and eighty nine.

THE Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution. RESOLVED by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following Articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all, or any of which Articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution; viz. ARTICLES in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

Frederick Augustus Muhlenberg Speaker of the House of Representatives John Adams, Vice-President of the United States and President of the Senate.

Attest, John Beckley, Clerk of the House of Representatives. Sam. A. Otis Secretary of the Senate.

Amendment 1

- Freedom of Religion, Speech, and the Press

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

----End of quote from <https://nccs.net/blogs/americas-founding-documents/bill-of-rights-amendments-1-10> ----

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CONSTITUTION OF THE STATE OF MICHIGAN OF 1963

PREAMBLE

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

Article I DECLARATION OF RIGHTS

Article 1. Sec. 4.

Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Article 1. Sec. 18.

No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

---end of quote from <http://legislature.mi.gov/doc.aspx?mcl-Constitution> ---

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The address of the Danbury Baptists Association in the state of Connecticut, assembled October 7, 1801.

To Thomas Jefferson, Esq., President of the United States of America.

Sir,

Among the many million in America and Europe who rejoice in your election to office; we embrace the first opportunity which we have enjoyed in our collective capacity, since your inauguration, to express our great satisfaction, in your appointment to the chief magistracy in the United States: And though our mode of expression may be less courtly and pompous than what many others clothe their addresses with, we beg you, sir, to believe that none are more sincere.

Our sentiments are uniformly on the side of religious liberty--that religion is at all times and places a matter between God and individuals--that no man ought to suffer in name, person, or effects on account of his religious opinions--that the legitimate power of civil government extends no further than to punish the man who works ill to his neighbors; But, sir, our constitution of government is not specific. Our ancient charter together with the law made coincident therewith, were adopted as the basis of our government, at the time of our revolution; and such had been our laws and usages, and such still are; that religion is considered as the first object of legislation; and therefore what religious privileges we enjoy (as a minor part of the state) we enjoy as favors granted, and not as inalienable rights; and these favors we receive at the expense of such degrading acknowledgements as are inconsistent with the rights of freemen. It is not to be wondered at therefore; if those who seek after power and gain under the pretense of government and religion should reproach their fellow men--should reproach their order magistrate, as a enemy of religion, law, and good order, because he will not, dare not, assume the prerogatives of Jehovah and make laws to govern the kingdom of Christ.

Sir, we are sensible that the president of the United States is not the national legislator, and also sensible that the national government cannot destroy the laws of each state; but our hopes are strong that the sentiments of our beloved president, which have had such genial effect already, like the radiant beams of the sun, will shine and prevail through all these states and all the world, till hierarchy and tyranny be destroyed from the earth. Sir, when we reflect on your past services, and see a glow of philanthropy and good will shining forth in a course of more than thirty years we have reason to believe that America's God has raised you up to fill the chair of state out of that goodwill which he bears to the millions which you preside over. May God strengthen you for your arduous task which providence and the voice of the people have called you to sustain and support you enjoy administration against all the predetermined opposition of those who wish to raise to wealth and importance on the poverty and subjection of the people.

And may the Lord preserve you safe from every evil and bring you at last to his heavenly kingdom through Jesus Christ our Glorious Mediator.

Signed in behalf of the association, Nehemiah Dodge
Ephraim Robbins
Stephen S. Nelson

Thomas Jefferson's Letter to the Danbury Baptist Association

To messers. Nehemiah Dodge, Ephraim Robbins, & Stephen S. Nelson, a committee of the Danbury Baptist association in the state of Connecticut.

Gentlemen

The affectionate sentiments of esteem and approbation which you are so good as to express towards me, on behalf of the Danbury Baptist association, give me the highest satisfaction. My duties dictate a faithful and zealous pursuit of the interests of my constituents, & in proportion as they are persuaded of my fidelity to those duties, the discharge of them becomes more and more pleasing.

Believing with you that religion is a matter which lies solely between Man & his God, that he owes account to none other for his faith or his worship, that the legitimate powers of government reach actions only, & not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should "make no law respecting an establishment of religion, or prohibiting the free exercise thereof," thus building a wall of separation between Church & State. Adhering to this expression of the supreme will of the nation in behalf of the rights of conscience, I shall see with sincere satisfaction the progress of those sentiments which tend to restore to man all his natural rights, convinced he has no natural right in opposition to his social duties.

I reciprocate your kind prayers for the protection & blessing of the common father and creator of man, and tender you for yourselves & your religious association, assurances of my high respect & esteem.

Th Jefferson

Jan. 1. 1802

---end of quote from <https://billofrightsinstitute.org/primary-sources/danburybaptists> ---

---quote begins of a sentence in Jefferson's draft which was omitted from the letter as sent---

. . . thus building a wall of separation between Church & State. [Congress thus inhibited from acts respecting religion, and the Executive authorised only to execute their acts, I have refrained from prescribing even those occasional performances of devotion, practiced indeed by the Executive of another nation as the legal head of its church, but subject here, as religious exercises only to the voluntary regulations and discipline of each respective sect.] Adhering to . . .

---end of quote from <https://www.usconstitution.net/jeffwall.html> ---

---quote begins from <https://lc.org/cases> ---

Liberty Counsel has litigated many cases since it was founded in 1989. Below are some of these cases . . .

Freedom of Speech and Religion

United States Supreme Court Cases

Shurtleff v. City of Boston (2022) – Liberty Counsel represented Boston resident Hal Shurtleff and his Christian civic organization, Camp Constitution. Shurtleff and Camp Constitution first asked the city in 2017 for a permit to raise the Christian flag on the “public forum” Boston City Hall flagpole to commemorate Constitution Day and Citizenship Day (September 17) and the civic and cultural contributions of the Christian community to the city of Boston, the Commonwealth of Massachusetts, religious tolerance, the Rule of Law and the U.S. Constitution. For 12 years, from 2005 to 2017, Boston approved 284 flag raisings by private organizations with no denials on the flagpoles that it designated a “public forum.” However, the city official denied Camp Constitution’s application in 2017 to fly the Christian flag on Constitution Day. After Mat Staver argued the case before the U.S. Supreme Court on January 18, 2022, the High Court ruled 9-0 on May 2, 2022, that the city of Boston violated the Constitution by censoring a private flag in a public forum open to “all applicants” merely because the application referred to it as a “Christian flag.” The High Court stated that it is not government speech, and because the government admitted it censored the flag because it was referred to as a Christian flag on the application, the censorship was viewpoint discrimination, and there is no Establishment Clause defense. With Justice Breyer writing the opinion, the High Court wrote that “Boston did not make the raising and flying of private groups’ flags a form of government speech. That means, in turn, that Boston’s refusal to let Shurtleff and Camp Constitution raise their flag based on its religious viewpoint ‘abridg[ed]’ their ‘freedom of speech.’”

Mountain Right to Life v Becerra, 138 S.Ct. 2702 (2018) – After the Supreme Court sent the case back to the Ninth Circuit court of Appeals, which sent it back to the district court, California paid attorneys fees and costs to Liberty Counsel. The case involved three pro-life pregnancy centers that had been forced by California to promote abortion. The district court permanently enjoined the California Reproductive FACT Act which required the pregnancy centers to endorse the government language promoting the abortion message on their front door, in their waiting room, online and in every advertisement for the crisis pregnancy center.

McCreary County, Kentucky v. ACLU of Kentucky, 545 U.S. 844 (2005) – Liberty Counsel represented McCreary County, Kentucky in a challenge brought by the ACLU against display of historical documents that included the Ten Commandments. The United States Supreme Court heard the *McCreary County* case along with the Texas case of *Van Orden v. Perry*. The Court issued split decisions on the cases: upholding display of a six-foot-tall granite Ten Commandments monument on the Texas capitol grounds, but ruling against the Ten Commandments as part of a larger display on law in two Kentucky courthouses. In *McCreary County*, a 5-4 decision authored by Justice Souter, and joined by Justices Stephens, O’Connor, Ginsburg and Breyer, the Court upheld the lower court’s decision against the Kentucky displays. In the majority opinion, Justice Souter said that the ruling does not mean that a sacred text can never be integrated into a governmental display on law and history. Justice Scalia, joined by Justices Thomas, Rehnquist and Kennedy dissented with Justice Scalia reading his dissent from the bench to emphasize his disagreement with the Court’s opinion.

Madsen v. Women's Health Center, Inc., 512 U.S. 753 (1994) – Liberty Counsel successfully challenged portions of a City of Melbourne ordinance that imposed 300-foot buffer zones around abortion clinics and private residences of clinic workers and require that pro-life demonstrators obtain permission to speak to those associated with the clinic. The United States Supreme Court (6-3) struck down the 300-foot zone around people going in and out of the clinic and struck down the ban against images that could be seen from inside the clinic.

Other Courts

Vazzo v. City of Tampa, 415 F.Supp.3d 1087 (M.D. Fla. 2019) – A federal court struck down a city ordinance that prohibited licensed counselors from providing voluntary talk therapy to minors seeking help to reduce or eliminate their unwanted same-sex attractions, behaviors, or identity. The court ruled that local governments do not have authority to regulate counseling because it is the prerogative of the state.

---end of quote from <https://lc.org/cases> (First Liberty and other organizations also litigate these type cases)