

# A Quick Guide to the Religion Clauses of:

## Your First Amendment

“Congress shall  
make no law  
respecting an  
establishment of  
religion, or  
prohibiting the  
free exercise  
thereof...”



# Rights

# The First Amendment

The First Amendment protects freedom of religion, speech, press and assembly. It protects different aspects of the rights of conscience – including the freedom to think and act on your convictions, to speak and publish your cherished ideas, and to gather together with those of like mind.

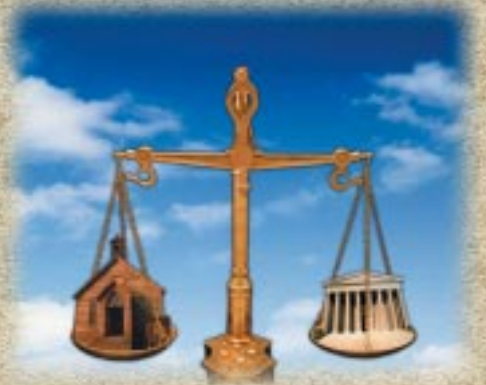


The Bill of Rights begins with freedom of religion

*“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.”*

The First Amendment requires government to stay out of the business of religion, neither promoting nor interfering with religious activities or institutions. It guarantees people of all faiths the right to worship freely, ensuring that religion is voluntary, not coerced. No one is to dictate the will of God for another.

Liberty of conscience is an “inalienable” right. Government has no right to tell you what to think, or how to worship. That is called coercion of conscience. Understanding this, our founding fathers crafted a constitution that gave the government only limited, delegated powers, and no power to infringe on fundamental rights. Nevertheless, the people demanded a Bill of Rights that would specify some of these inalienable rights to ensure the protection of individual freedom.



**The First Amendment is based upon the twin principles of Non-Establishment and Free Exercise of religion**

The first two clauses of the Bill of Rights form the foundation of our religious freedom: the first by erecting a wall of separation between church and state; and the second, by ensuring that all people are free to follow the dictates of conscience.

# No Establishment

Having escaped the tyranny of the Holy Roman Empire, and the insidious legalism of the Church of England, our founding fathers wanted to ensure that the Federal government could not establish or enforce any form of religion. Thomas Jefferson wrote of the "wall of separation between church and state," borrowing the phrase from Roger Williams, the Baptist founder of Rhode Island. Everyone has heard of this wall, but few have any idea what is meant by the establishment of religion.



The famous "wall of separation" is under assault.

James Madison's commitment to religious freedom was partly shaped by hearing Baptist pastors preaching from behind bars - jailed for preaching without a license. State licensing of preachers was a form of religious establishment. The state decided who could preach, what religions could be preached, and where. In New England, Baptists objected to paying taxes to support the congregational churches. Some even objected to paying taxes to support their own church. A few lost their farms or went to jail. Taxation to support the church was also a religious establishment.

***"Almighty God hath created the mind of man free."***

- Thomas Jefferson

Two Protestant principles influenced the drafting of the First Amendment. First, that "in matters of conscience, the majority has no power." Second, that the entire duty of the state with respect to religion is to protect religious liberty.

The Establishment Clause deprives government of power to legislate in matters of faith. Whether God exists and how we ought to worship should never be put to a popular vote. *The First Amendment protects your right to interpret reality for yourself.*

Many argue that the First Amendment should allow government to promote or fund religion, as long as all faiths are treated equally, or "non-preferentially". This is a profound distortion of history. In 1786, on the eve of the Constitution, James Madison defeated a "non-preferential" funding scheme for paying the salaries of teachers of religion in colonial Virginia, enacting Thomas Jefferson's Bill for Establishing Religious Freedom in its place. Our founding fathers decisively rejected "non-preferentialism." But today, we see public funding of religion justified in the name of equal rights and "faith-based" social reform programs.

Today, the famous wall of separation is under assault. The cases fall roughly into three categories: Public funding of religion, public religious activity, and church autonomy

# Public Funding

Our founding fathers learned from history that public funding of religion leads to two abuses: the corruption of the church by the state, and the oppression of the state by the church. The public often suffers when preachers and politicians share the same pie. Therefore, both Federal and state constitutions outlaw public funding of religion. Civil and religious authorities are to be kept separate and distinct.



“Caesar’s gold means Caesar’s rules”

In spite of this, the courts and Congress have relaxed the rules. Courts have approved indirect aid to religious schools such as loans of equipment and textbooks. Since Congress adopted “charitable choice” in 1996, church operated social service agencies receive funding for a range of church evangelism activities.

Historically, public funding was denied in order to protect the autonomy and spiritual vitality of churches. Today, those seeking public funding mistakenly believe there is no danger from a partnership between church and state. They also naively assume that there is no danger of intrusive government supervision and control. Yet the golden rule has never been revoked: he who has the gold still makes the rules.

Public funding also inevitably favors the most popular or numerous churches, whose power and influence are unfairly increased by their access to public funds. Equal funding for religious ministries may sound innocent enough, but in practice, it leads to inequality and discrimination against smaller religious groups.



Alan Blum went to public school in the 1950s. For the first few weeks, Alan learned to pray to Jesus and read the Bible, just like the other kids. His father was very upset when he found out that the school was teaching his Jewish son to pray to Jesus. After that, when the class would read the Bible and pray, Alan was sent out into the hall. He thought he was being punished for not being a Christian. Many times, Alan wished he could be like all the other kids. He didn’t like being sent out into the hall. He didn’t like being teased and laughed at because he was different. Today, Alan’s children can attend public school without being made to feel that their religion is wrong. They don’t wish they were Christians just to fit in.

This is what it means to have no establishment of religion. Because government doesn’t sponsor or promote religion, everyone is treated equally no matter what they believe. Faith is voluntary and free, not forced or manipulated.



## Public Religious Activity

Does government have any role in promoting or sponsoring religious activities, such as prayer or devotional Bible readings? No. Religion is not the business of government. This is why the Supreme Court has ruled that all laws must be secular in their purpose and effect.



The ongoing battle over school prayer is based on the false assumption that kids can't pray in public schools. The Supreme Court never banned prayer. In the original school prayer case, *Engel v. Vitale* the Court struck down the requirement that a prayer, drafted by a state agency, be recited in every public classroom.

The Court has affirmed the right of children to pray, for example: before math tests, at lunchtime, or in groups with the same rights as other student clubs. Some church leaders attack the Supreme Court's decisions because they want government to promote their faith. They have introduced into Congress numerous versions of a constitutional amendment to rewrite the Establishment Clause. Various state laws have been passed on subjects like moments of silence, posting of the Ten Commandments and of the national motto, "In God We Trust."

Laws enforcing religious activity have a bad history. When church and state lean on each other to exact obedience from the people, this is tyranny. Our nation was founded on the Protestant principle that religion needs no more from the state than to be left alone to enjoy its freedom.

## Protection for Church Autonomy

Courts generally refuse to interfere with internal church disputes over doctrine and church governance. Basic to religious freedom is that faith communities remain free of government intrusion. Churches don't have to file tax returns, or make their financial affairs or membership lists public. They are not subject to state regulation and oversight. This principle of autonomy is seriously compromised when churches accept public funding.

The state has an obligation to hold accountable those who receive public funds. But government funding is not the only threat to church autonomy. Across the country, local congregations are being restricted by zoning and other non-religious statutes which effectively block the ability to worship, gather, or evangelize without appearing to specifically violate First Amendment rights.



## Free Exercise of Religion

Eighty-seven year old Henry Kravitz walks with difficulty to join a minyan for prayer every Sabbath. An amputee, he still bears a tattoo from Auschwitz, where he risked his life to pray with other Jews in the German concentration camp. When the neighbors learned of this small group meeting in a private home, they protested to the city of Los Angeles. The city responded by requiring a permit to pray and conduct religious services.



When the small group of Orthodox Jews applied, the permit was denied because the neighborhood association had more political clout than they did. The city also threatened to arrest Henry and his friends for zoning violations. Your First Amendment is supposed to guarantee Henry's right to pray in America. Sadly, it no longer does. Group wishes are outweighing individual rights.



Protestant Reformers understood that the government's duty with respect to religion is to protect religious liberty. But today Martin Luther might be blocked from nailing his 95 theses to the door on the grounds of defacing public or private property, littering, "No Soliciting", or simply being offensive and politically incorrect. All over the country restrictive zoning and use ordinances have prevented groups from assembling together for worship in homes, from building churches, and from

conducting various ministries like feeding the homeless, and operating schools and radio stations.

Public school students are sometimes denied the right to wear religious garb, to use religious themes in homework assignments, or to be excused from classes that offend their faith. Public schools or government employers may sometimes require attendance at school or work in conflict with Sabbath observance.

Free Exercise was dealt a severe blow in 1990, when the U.S. Supreme Court held that religious freedom gives no one the right to object to laws that apply generally to everyone. This made religious freedom subject to majority rule. In a dissenting opinion, Justice Blackmun accused the Court of holding that "the free exercise of religion is a luxury that a well-ordered society cannot afford, and that the repression of minority religions is an unavoidable consequence of democratic government"

He went on to say:

"...I do not believe the Founders thought their dearly bought freedom from religious persecution a 'luxury' but an essential element of liberty - and they could not have thought religious intolerance 'unavoidable', for they drafted the Religion Clauses precisely in order to avoid that intolerance."

# A Luxury We Can't Afford?

A massive outcry by the religious and civil rights community led Congress to enact the Religious Freedom Restoration Act [RFRA] in 1993. The victory was short-lived. In 1997, the Supreme Court ruled RFRA unconstitutional as applied to the states. The battle shifted to the states, which began to enact their own Religious Freedom Acts ["RFAs"] State RFAs apply the same legal standard used by the Supreme Court prior to 1990 - that government must demonstrate a compelling reason for restricting religious practices, even where laws apply generally to everyone.

In 2000, Congress enacted an important bill to protect religious liberty in land use situations and for prisoners and others in government custody. Call the number on the back of this pamphlet for a separate brochure explaining the provisions of this important bill.

*"the free exercise of religion is a luxury that a well-ordered society cannot afford, and that the repression of minority religions is an unavoidable consequence of democratic government."*

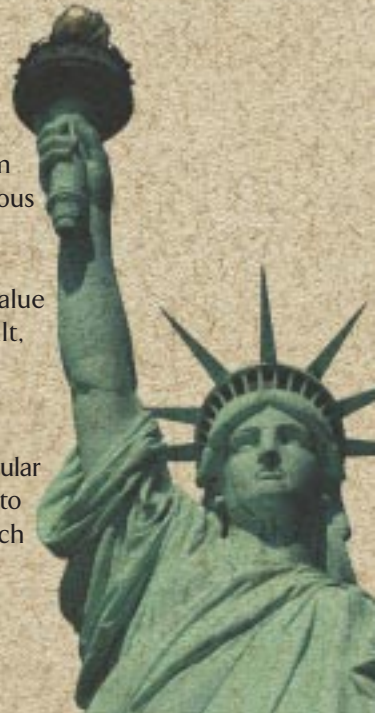
Justice Blackmun dissents - Supreme Court 1990

## Conclusion

American principles of religious liberty as proclaimed by our Constitution and First Amendment have been the envy of the world. America has been an example of freedom admired by people everywhere. Yet the struggle for religious liberty is far from over, even in America.

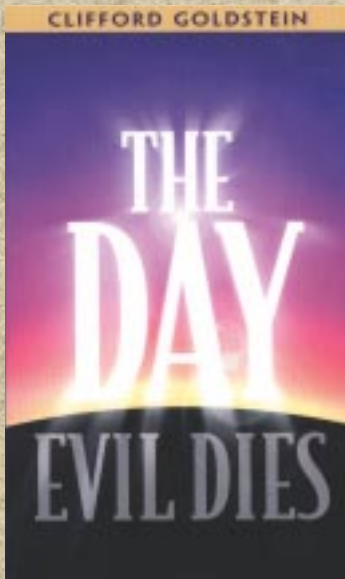
An increasingly secularized society has depreciated the value of religious liberty and individual conscience. As a result, Courts frequently fail to protect rights of conscience. The need for "eternal vigilance" has never been greater.

Many question why they should defend the rights of unpopular or "heretical" faiths, forgetting that the state has no right to judge whose faith is right or wrong. If we don't defend each other's freedom, we risk losing our own.



For Seventh-day Adventists, defending religious freedom also means proclaiming an important truth about God's character - that God is Love. The Gospel proclaims unconditional love for a race that is willful and disobedient. But Humanity could not be charged with disobedience if we had not been given the freedom of choice in the first place. God could have chosen to govern human affairs more directly, but didn't. The gift of salvation in Christ is offered freely to all, but is not to be forced on anyone. When we defend religious freedom, we defend the very essence of God's character of love; and His ultimate respect for your freedom of choice, and the integrity of your individual conscience.

Because eternal vigilance is still the price of liberty, the Seventh-day Adventist Church State Council works diligently in courts, legislatures, and through public education to promote your religious freedom. Be informed, get involved! Visit us on the web at [www.churchstate.org](http://www.churchstate.org), or call 877-332-FREE.



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