

CONTROLLING LEGAL PRINCIPLES

*Free Exercise Clause Decision – The “Contemplation of Justice”
Machinists v. Street, 367 U.S. 740, 789 (1961)*



The First Amendment provides:

"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."

Probably no one would suggest that Congress could, without violating this Amendment, pass a law taxing workers, or any persons for that matter (even lawyers), to create a fund to be used in helping certain political parties or groups favored by the Government to elect their candidates or promote their controversial causes. Compelling a man by law to pay his money to elect candidates or advocate laws or doctrines he is against differs only in degree, if at all, from compelling him by law to speak for a candidate, a party, or a cause he is against. **The very reason for the First Amendment is to make the people of this country free to think, speak, write and worship as they wish, not as the Government commands.**

There is, of course, no constitutional reason why a union or other private group may not spend its funds for political or ideological causes if its members voluntarily join it and can voluntarily get out of it. [Footnote 3/10] Labor unions made up of voluntary members free to get in or out of the unions when they please have played important and useful roles in politics and economic affairs. [Footnote 3/11] How to spend its money is a question for each voluntary group to decide for itself in the absence of some valid law forbidding

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activities for which the money is spent. [Footnote 3/12] **But a different situation arises when a federal law steps in and authorizes such a group to carry on activities at the expense of persons who do not choose to be members of the group, as well as those who do.** Such a law, even though validly passed by Congress, cannot be used in a way that abridges the specifically defined freedoms of the First Amendment.

Thoughts, Words and Actions for Plaintiff's Quintessential Rights of the First Amendment:
Truths that manifest Life, Liberty & Pursuit of Happiness pursuant to the Free Exercise Clause

And whether there is such abridgment depends not only on how the law is written, but also on how it works. [Footnote 3/13] See, e.g., *Giboney v. Empire Storage & Ice Co.*, 336 U. S. 490. (Emphasis added)

First Amendment is not the charter of political and religious liberty its sponsors believed it to be. James Madison, who wrote the Amendment, said in arguing for religious liberty that

"the same authority which can force a citizen to contribute three pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever. [Footnote 3/14]"

And Thomas Jefferson said that

"to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyrannical. [Footnote 3/15]"

These views of Madison and Jefferson authentically represent the philosophy embodied in the safeguards of the First Amendment. **That Amendment leaves the Federal Government no power whatever to compel one man to expend his energy, his time or his money to advance the fortunes of candidates he would like to see defeated or to urge ideologies and causes he believes would be hurtful to the country.**

[Footnote]

We held in the *Hanson* case, with respect to this very same § 2, Eleventh, that even though the statutory provision authorizing union shops is only permissive, that provision, "which expressly declares that state law is superseded," is "the source of the power and authority by which any private rights are lost or sacrificed," and therefore is "the governmental action on which the Constitution operates." 351 U.S. at 351 U. S. 232. Even though § 2, Eleventh, is permissive in form, Congress was fully aware when enacting it that the almost certain result would be the establishment of union shops throughout the railroad industry. Witness after witness so testified during the hearings on the bill, and this testimony was never seriously disputed. See Hearings on S. 3295, *supra*, note 8, *passim*; Hearings on H.R. 7789, *supra*, note 8, *passim*.

[Footnote 3/14]

1 Stokes, *Church and State in the United States*, 391 (1950).

[Footnote 3/15]