

## CONTROLLING LEGAL PRINCIPLES

### *Free Exercise Clause Decision – The “Contemplation of Justice”* *Jacobson v. Massachusetts, 197 U.S. 11 (1905)*



Undoubtedly, as observed by Chief Justice Marshall, speaking for the court in *Sturges v. Crowninshield*, 4 Wheat. 122, 17 U. S. 202,

*“the spirit of an instrument, especially of a constitution, is to be respected not less than its letter, yet the spirit is to be collected chiefly from its words.”*

“The United States does not derive any of its substantive powers from the Preamble of the Constitution. It cannot exert any power to secure the declared objects of the Constitution unless, apart from the Preamble, such power be found in, or can properly be implied from, some express delegation in the instrument. While the spirit of the Constitution is to be respected not less than its letter, the spirit is to be collected chiefly from its words.”

“The liberty secured by the Constitution of the United States does not import an absolute right in each person to be at all times, and in all circumstances, wholly freed from restraint, nor is it an element in such liberty that one person, or a minority of persons residing in any community and enjoying the benefits of its local government, should have power to dominate the majority when supported in their action by the authority of the State.”

Such powers embrace only those expressly granted in the body of the Constitution and such as may be implied from those so granted. Although, therefore, one of the declared objects of the Constitution was to secure the blessings of liberty to all under the sovereign jurisdiction and authority of the United States, no power can be exerted to that end by the United States unless, apart from the Preamble, it be found in some express delegation of power or in some power to be properly implied therefrom. 1 Story's Const. § 462.

“The possession and enjoyment of all rights are subject to such reasonable conditions as may be deemed by the governing authority of the country essential to the safety, health, peace, good order and morals of the community. Even liberty

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itself, the greatest of all rights, is not unrestricted license to act according to one's own will. It is only freedom from restraint under conditions essential to the equal enjoyment of the same right by others. It is then liberty regulated by law.”