

## CONTROLLING LEGAL PRINCIPLES

*Free Exercise Clause Decision – The “Contemplation of Justice”*  
*Wooley v. Maynard, 430 U.S. 705 (1977)*



“The First Amendment protects the right of individuals to hold a point of view different from the majority, and to refuse to foster,.... *an idea they find morally objectionable.*” Emphasis added

***“We begin with the proposition that the right of freedom of thought protected by the First Amendment against state action includes both the right to speak freely and the right to refrain from speaking at all. See Board of Education v. Barnette, 319 U. S. 624, 319 U. S. 633-634 (1943); id. at 319 U. S. 645 (Murphy, J., concurring). A system which secures the right to proselytize religious, political, and ideological causes must also guarantee the concomitant right to decline to foster such concepts. The right to speak and the right to refrain from speaking are complementary components of the broader concept of “individual freedom of mind.” Id. at 319 U. S. 637.”*** Emphasis added

Here, as in *Barnette*, we are faced with a state measure which forces an individual, as part of his daily life -- indeed, constantly while his automobile is in public view - - **to be an instrument for fostering public adherence to an ideological point of view he finds unacceptable.** In doing so, the State

**“invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control.”**

*Id.* at 319 U. S. 642.

The Court cites *Barnette* for the proposition that there is a constitutional right, in some cases, to “refrain from speaking.” *Ante* at 430 U. S. 714. What the Court does not demonstrate is that there is any “speech” or “speaking” in the context of this case. **The Court also relies upon the “right to decline to foster [religious, political, and ideological] concepts,” *ibid.*,**