

## CONTROLLING LEGAL PRINCIPLES

### *Free Exercise Clause Decision – The “Contemplation of Justice” Reynolds v. United States, 98 U.S. 145 (1878)*



*“Believing with you that religion is a matter which lies solely between man and his God; that he owes account to none other for his faith or his worship; that the legislative powers of the government reach actions only, and not opinions.”* Page 98 U. S. 164-165

“The word "religion" is not defined in the Constitution. We must go elsewhere, therefore, to ascertain its meaning, and nowhere more appropriately, we think, than to the history of the times in the midst of which the provision was adopted. The precise point of the inquiry is what is the religious freedom which has been guaranteed.

Before the adoption of the Constitution, attempts were made in some of the colonies and States to legislate not only in respect to the establishment of religion, **but in respect to its doctrines and precepts as well.** The people were taxed, against their will, for the support of religion, and sometimes for the support of particular sects to whose tenets they could not and did not subscribe. **Punishments were prescribed for a failure to attend upon public worship, and sometimes for entertaining**

Page 98 U. S. 163

**heretical opinions.”**

“As soon as he saw the draft of the Constitution proposed for adoption, he, in a letter to a friend, expressed his disappointment at the absence of an express declaration insuring the freedom of religion (2 Jeff. Works 355), but was willing to accept it as it was, trusting that the good sense and honest intentions of the people would bring about the necessary alterations.

Page 98 U. S. 164

1 Jeff. Works 79. Five of the States, while adopting the Constitution, proposed amendments. Three

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*

-- New Hampshire, New York, and Virginia -- included in one form or another a declaration of religious freedom in the changes they desired to have made, as did also North Carolina, where the convention at first declined to ratify the Constitution until the proposed amendments were acted upon. Accordingly, at the first session of the first Congress, the amendment now under consideration was proposed with others by Mr. Madison. It met the views of the advocates of religious freedom, and was adopted. Mr. Jefferson afterwards, in reply to an address to him by a committee of the Danbury Baptist Association (8 *id.* 113), took occasion to say:

"Believing with you that religion is a matter which lies solely between man and his God; that he owes account to none other for his faith or his worship; that the legislative powers of the government reach actions only, and 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 and 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 man to all his natural rights, convinced he has no natural right in opposition to his social duties."

Coming as this does from an acknowledged leader of the advocates of the measure, it may be accepted almost as an authoritative declaration of the scope and effect of the amendment thus secured. **Congress was deprived of all legislative power over mere opinion, but was left free to reach actions which were in violation of social duties or subversive of good order."** (Emphasis added)

"In the face of all this evidence, it is impossible to believe that the constitutional guaranty of religious freedom was intended to prohibit legislation in respect to this most important feature of social life. Marriage, while from its very nature a sacred obligation, is nevertheless, in most civilized nations, a civil contract, and usually regulated by law. Upon it society may be said to be built, and out of its fruits spring social relations and social obligations and duties with which government is necessarily required to deal. In fact, according as monogamous or polygamous marriages are allowed, do we find the principles on which the government of

Page 98 U. S. 166

the people, to a greater or less extent, rests."