

CONTROLLING LEGAL PRINCIPLES

Free Exercise Clause Decision – The “Contemplation of Justice” Yick Wo v. Hopkins, 118 U.S. 356 (1886)



When we consider the nature and the theory of our institutions of government, the principles upon which they are supposed

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to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but, in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power

But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts Bill of Rights, the government of the commonwealth "may be a government of laws, and not of men." *For the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life at the mere will of another seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself.*

There are many illustrations that might be given of this truth, which would make manifest that it was self-evident in the light of our system of jurisprudence. **The case of the political franchise of voting is one.** Though not regarded strictly as a natural right, but as a privilege merely conceded by society according to its will under certain conditions, nevertheless it is regarded as a fundamental political right, because preservative of all rights.

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

Though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal

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hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution. This principle of interpretation has been sanctioned by this court in *Henderson v. Mayor of New York*, 92 U. S. 259; *Chy Lung v. Freeman*, 92 U. S. 275; *Ex parte Virginia*, 100 U. S. 339; *Neal v. Delaware*, 103 U. S. 370, and *Soon Hing v. Crowley*, 113 U. S. 703.

A municipal ordinance to regulate the carrying on of public laundries within the limits of the municipality violates the provisions of the Constitution of the United States if it confers upon the municipal authorities arbitrary power, at their own will, and without regard to discretion in the legal sense of the term, to give or withhold consent as to persons or places, without regard to the competency of the persons applying, or the propriety of the place selected, for the carrying on of the business.

An administration of a municipal ordinance for the carrying on of a lawful business within the corporate limits violates the provisions of the Constitution of the United States if it makes arbitrary and unjust discriminations, founded on differences of race between persons otherwise in similar circumstances.

The guarantees of protection contained in the Fourteenth Amendment to the Constitution extend to all persons within the territorial jurisdiction of the United States, without regard to differences of race, of color, or of nationality.