



# CONGRESSIONAL PRAYER CAUCUS FOUNDATION

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Congressman Robert Wittman

March 28, 2018

The Honorable Jack Whitver  
President, Iowa State Senate  
Iowa State Capitol  
1007 East Grand Avenue  
Des Moines, IA 50319

Re: Senate Invocation

Dear President Whitver:

I have the honor of serving as the Executive Director of the Congressional Prayer Caucus Foundation. The Foundation serves nearly 100 members of Congress who are part of the Congressional Prayer Caucus (the names of those members of Congress who serve on the Congressional Prayer Advisory Team are listed on the left).

In addition, the Foundation serves Legislative Prayer Caucuses in over 30 states, including Iowa, which have nearly 1,000 state senators and state representatives as members. These leaders are working together to preserve the integrity of our founding principles and to protect First Amendment rights for all.

We recently learned that the Freedom from Religion Foundation (“FFRF”) sent you a letter alleging that the Iowa tradition of opening each legislative session with prayer by a guest clergyman is a violation of the Constitution. FFRF represents in its letter that the Director of Eastern Iowa Atheists wants to give an invocation, but has been denied the opportunity to do so because no Senator will sponsor him. FFRF claims that “prayer at government meetings is unnecessary, inappropriate, and divisive,” and that these invocations are “superfluous” to “the secular business of government.”

FFRF in its letter ignores the very well-established tradition of opening legislative sessions with prayer. The power of this tradition, which began in colonial times, was illustrated well during the Constitutional Convention of 1787 when Benjamin Franklin, one of the least religiously devout of the Founders, stated the following when he found deliberations at an impasse,

I have lived, Sir, a long time and the longer I live, the more convincing proofs I see of this truth -- that *God governs in the affairs of men*. And if a sparrow cannot fall to the ground without His notice, is it probable that an empire can rise without His aid? We have been assured, Sir, in the sacred writings that "except the Lord build they labor in vain that build it." I firmly believe this; and I also believe that without His concurring aid we shall succeed in this political building no better than the Builders of Babel: We shall be divided by our little partial local interests; our projects will be confounded, and we ourselves shall be become a reproach and a bye word down to future age. And what is worse, mankind may hereafter this unfortunate instance, despair of establishing Governments by Human Wisdom, and leave it to chance, war, and conquest.

I therefore beg leave to move -- that henceforth prayers imploring the assistance of Heaven, and its blessings on our deliberations, be held in this Assembly every morning before we proceed to business, and that one or more of the Clergy of this City be requested to officiate in that service. See <http://www.americanrhetoric.com/speeches/benfranklin.htm>

Mr. Franklin's motion was approved with great favor, and the practice he recommended has been followed in most states, including Iowa.

The constitutionality of whether a government legislative body can open a session in prayer was first considered nearly 45 years ago. In *Marsh v. Chambers*, 463 U. S. 783 (1983), a Nebraska state legislator challenged his legislature's practice of hiring a chaplain (always a Christian of the same denomination) who always opened the legislative sessions with a Judeo-Christian prayer. The legislator contended that this practice violated the First Amendment's Establishment Clause, a contention soundly rejected by the Supreme Court. Perhaps just as important as the ruling were Chief Justice Burger's following words on behalf of the Court,

The opening of sessions of legislative and other deliberative public bodies with prayer is deeply embedded in the history and tradition of this country. From colonial times through the founding of the Republic and ever since, the practice of legislative prayer has coexisted with the principles of disestablishment and religious freedom. In the very courtrooms in which the United States District Judge and later three Circuit Judges heard and decided this case, the proceedings opened with an announcement that concluded, "God save the United States in this Honorable Court." The same invocation occurs at all sessions of this Court. 463 U. S. at 786.

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After reviewing the colonial practice of opening legislative sessions with prayer, the Chief Justice reviewed the practice of the First Congress, and noted,

On September 25, 1789, three days after Congress authorized the appointment of pay chaplains, final agreement was reached on the language of the Bill of Rights ... Clearly the men who wrote the First Amendment Religion Clause did not view paid legislative chaplains and opening prayers as a violation of that Amendment, for the practice of opening sessions with prayer has continued without interruption ever since that early session of Congress. It has also been followed consistently in most of the states... 463 U. S. at 788-89.

These principles in *Marsh* were reaffirmed a couple years ago in *Town of Greece v. Galloway*, 134 S. Ct. 1811 (2014), where the Supreme Court once again held that opening government meetings in prayer is constitutionally permissible. In his opinion for the Court, Justice Kennedy highlighted our nation's historic use of legislative prayer, further stating that "the First Congress provided for the appointment of chaplains only days after approving language for the First Amendment [which] demonstrates that the Framers considered legislative prayer a benign acknowledgment of religion's role in society.... As a practice that has long endured, legislative prayer has become part of our heritage and tradition, part of our expressive idiom, similar to the Pledge of Allegiance, inaugural prayer, or the recitation of "God Save the United States and this Honorable Court" at the opening of this Court's sessions." *Id.* at 1819, 1825.

Justice Kennedy in *Town of Greece* rejected FFRF's claim that prayers before meetings is divisive. Justice Kennedy wrote, "The ceremonial prayers strive for the idea that people of many faiths may be united in a community of tolerance and devotion. Even those who disagree as to religious doctrine may find common ground in the desire to show respect for the divine in all aspects of their lives and being. Our tradition assumes that adult citizens, firm in their own beliefs, can tolerate and perhaps appreciate as ceremonial prayer delivered by a person of a different faith." *Id.* at 1823.

Chief Justice Burger in *Marsh v. Chambers*, 463 U. S. at 792, provides a good conclusion when he said,

In light of the unambiguous and unbroken history of more than 200 years, there can be no doubt that the practice of opening legislative sessions with prayer has become part of the fabric of our society. To invoke Divine guidance on a public body entrusted with making the laws is not, in these circumstances, an

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“establishment” of religion or a step toward establishment; it is simply a tolerable acknowledgment of beliefs widely held among the people of this country. As Justice Douglas observed, “[w]e are a religious people whose institutions presuppose a Supreme Being.” *Zorach v. Clauson*, 343 U. S. 306, 313 (1952).

In closing, we hope that you will not yield to threats to rob you and your community of your rights and heritage. To protect our freedom, we must exercise that freedom.

May God bless you and your fellow Iowa Senators,



Lea Carawan  
Executive Director  
Congressional Prayer Caucus Foundation