



CONGRESSIONAL PRAYER CAUCUS FOUNDATION

CONGRESSIONAL ADVISORY MEMBERS

Congressman Randy Forbes
Senator James Lankford
Congressman Mark Walker
Congressman Rick Crawford
Congressman Randy Hultgren
Senator John Boozman
Congressman Robert Aderholt
Congressman Brian Babin
Congressman Marsha Blackburn
Congressman John Carter
Congressman Mike Conaway
Congressman Kevin Cramer
Congressman Jeff Fortenberry
Congressman Gregg Harper
Congressman Vicky Hartzler
Congressman Jody Hice
Congressman Richard Hudson
Congressman Bill Huizenga
Congressman Doug Lamborn
Congressman Steve Pearce
Congressman Robert Pittenger
Congressman Paul Ryan
Congressman Chris Smith
Congressman Glenn Thompson
Congressman Tim Walberg
Congressman Joe Wilson
Congressman Robert Wittman

September 24, 2018

The Hon. Tim Ihle
President, Meigs County Commissioners
100 East Second Street
Pomerou, Ohio 45769

Re: National Day of Prayer Event, Promotion of Religious Events on Social Media Page, and Prayer at Public Meetings

Dear President Ihle:

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 32 states, including Ohio, which have over 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 are writing this letter to state publicly that we support your decision to continue participating in the National Day of Prayer next year, promoting various events (including religious events) on your social media page, and opening Commission meetings with prayer.

We learned recently that you received a letter from the Freedom From Religion Foundation ("FFRF") complaining that the Meigs County Commission is hosting the National Day of Prayer event, that the County is promoting religious events on its social media page, and that the Commission is opening its meetings with prayer. FFRF contends that each of these violates the First Amendment's Establishment Clause. We very much disagree, and commend you for your faithfulness in adhering to the traditions of our nation. We will respond to each issue raised.

National Day of Prayer

We thank you for Meigs County's tradition of holding a National Day of Prayer event each year in May. In doing so, the County has responded affirmatively to a presidential proclamation declaring a National Day of Prayer, as required by federal law. This proclamation has followed the tradition of almost every American President, who in their official capacity called on citizens to pray for local, state, and federal officials. Because of this tradition, we hope that you ignore FFRF's request to discontinue the County's support for this important annual event.

Promotion of Religious Events on Social Media

FFRF's claim that the Establishment Clause of the First Amendment prohibits government sponsorship of religious messages is simply untrue. As the U.S. Supreme Court stated in *Lynch v. Donnelly*, 465 U.S. 668, 673-75 (1984),

the Constitution [does not] require complete separation of church and state; it affirmatively *mandates accommodation*, not merely tolerance, of all religions, and *forbids hostility toward any*. See, e.g., *Zorach v. Clauson*; *McCullum v. Board of Education*. Anything less would require the "callous indifference" we have said was never intended by the Establishment Clause. *Zorach*. Indeed, we have observed, such hostility would bring us into "war with our national tradition as embodied in the First Amendment's guaranty of the free exercise of religion." *McCullum*.

The Court's interpretation of the Establishment Clause has comported with what history reveals was the contemporaneous understanding of its guarantees. A significant example of the contemporaneous understanding of that Clause is found in the events of the first week of the First Session of the First Congress in 1789. In the very week that Congress approved the Establishment Clause as part of the Bill of Rights for submission to the states, it enacted legislation providing for paid chaplains for the House and Senate. In *Marsh v. Chambers*, we noted that seventeen Members of that First Congress had been Delegates to the Constitutional Convention where freedom of speech, press and religion and antagonism toward an established church were subjects of frequent discussion. We saw no conflict with the Establishment Clause when Nebraska employed members of the clergy as official Legislative Chaplains to give opening prayers at sessions of the state legislature. *Id.*

The interpretation of the Establishment Clause by Congress in 1789 takes on special significance in light of the Court's emphasis that the First Congress

“was a Congress whose constitutional decisions have always been regarded, as they should be regarded, as of the greatest weight in the interpretation of that *** fundamental instrument.” *Myers v. United States*.

It is clear that neither the seventeen draftsmen of the Constitution who were Members of the First Congress, nor the Congress of 1789, saw any establishment problem in the employment of congressional Chaplains to offer daily prayers in the Congress, a practice that has continued for nearly two centuries. It would be difficult to identify a more striking example of the accommodation of religious belief intended by the Framers (citations omitted and emphasis added).

FFRF claims that the separation between state and church is among one of the most fundamental principles of our system of government. This, of course, is also untrue. The Constitution does not require separation of church and state, but it expressly guarantees that each citizen (including County Commissioners!) has the right to freely *exercise* (NOT simply behind closed doors) his/her religious beliefs. FFRF’s attempt to force religious messages out of the public arena is, of course, offensive to those who believe in the power of prayer and is, frankly, divisive. Declaring religious events “out of bounds” for civil discourse is intolerant of religion and actually is hostile to religious people. As noted in *Lynch*, quoted above, this hostility to religion is directly contrary to our national tradition and our First Amendment’s free exercise rights.

Opening Commission Meetings with Prayer

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 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 and this Honorable Court.” The same invocation occurs at all sessions of this Court. 463 U.S. at 786.

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

On Sept. 25, 1789, three days after Congress authorized the appointment of paid 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 any claim that prayer before meetings is divisive. Justice Kennedy wrote: "These 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 a ceremonial prayer delivered by a person of a different faith." *Id.* at 1823.

Chief Justice Burger in *Marsh v. Chambers*, 463 U.S. 792 provides a good conclusion:

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 "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).

We applaud you for continuing the time honored tradition of holding and supporting the National Day of Prayer, promoting various civic events on social media and not discriminating against religious events, and opening Commission sessions with prayer. May God continue to bless you and the citizens of Meigs County. If we can be of any further service to you on this issue, feel free to contact us. We have First Amendment lawyers on staff who will work with you, without charge, if you need their services. To protect our freedom, we must exercise that freedom.

Sincerely,



Lea Carawan

Executive Director

Congressional Prayer Caucus Foundation