



CONGRESSIONAL PRAYER CAUCUS FOUNDATION

January 20, 2020

CONGRESSIONAL ADVISORY MEMBERS

Senator James Lankford
Congressman Mark Walker
Congressman Rick Crawford
Senator John Boozman
Senator Marsha Blackburn
Senator Kevin Cramer
Congressman Robert Aderholt
Congressman Brian Babin
Congressman John Carter
Congressman Mike Conaway
Congressman Jeff Fortenberry
Congresswoman Vicky Hartzler
Congressman Jody Hice
Congressman Richard Hudson
Congressman Bill Huizenga
Congressman Doug Lamborn
Congressman Chris Smith
Congressman Glenn Thompson
Congressman Tim Walberg
Congressman Joe Wilson
Congressman Robert Wittman

The Hon. Samantha Stone
President, Preston Co. Commission
Commissioner David Price
Commissioner Donald Smith
106 West Main St., Suite 202
Kingwood, WV 26537

Re: National Day of Prayer Event

Dear President Stone and Commissioners Price and Smith:

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 a network of Legislative Prayer Caucuses in nearly 40 states, including West Virginia, which has 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 efforts in past years to help organize and promote the National Day of Prayer, and we urge the County to continue doing so, and to use public property (like the Courthouse lawn) for this event this coming year.

The National Day of Prayer was created by federal law almost 70 years ago and requires the President each year to issue a proclamation encouraging all Americans to pray on the first Thursday of May (36 U.S.C. §119). Such proclamations typically seek prayers of thanksgiving, as well as divine wisdom for federal, state and local officials. These presidential proclamations were initiated by George Washington who, acting officially as the President, issued a presidential proclamation asking all Americans to devote themselves "to the service of that great and glorious Being who

is the beneficent author of all the good that was, that is, or that will be,” to “unite in rendering unto Him our sincere and humble thanks for His kind care and protection of the people of this country previous to their becoming a nation,” and “to pardon our national and other transgressions” This proclamation was printed by government printing presses and distributed by government employees, as were similar proclamations of other presidents to our present day.

During the depths of the greatest crisis our nation experienced, President Lincoln implored American citizens to confess their sins and seek God’s mercy through prayer:

[I]t is the duty of nations as well as of men to own their dependence upon the overruling power of God, to confess their sins and transgressions in humble sorrow, yet with assured hope that genuine repentance will lead to mercy and pardon, and to recognize the sublime truth, announced in the Holy Scriptures and proven by all history, that those nations only are blessed whose God is the Lord.

[Presidential Proclamations for Thanksgiving and Prayer can be found at <http://www.whatsoproudlywehail.org/curriculum/the-american-calendar/thanksgiving-day-proclamations-1789-present>]

We learned recently that you received a letter from the Freedom From Religion Foundation (“FFRF”) urging Preston County to disavow this longstanding tradition and ignore the presidential proclamation for the upcoming annual National Day of Prayer. Although we have not seen FFRF’s letter, from other FFRF letters on this subject we assume that FFRF has complained that Preston County has been using its website to advertise the National Day of Prayer event, that certain elected officials have appeared at the event in an official capacity, and that the City has been holding the event in a public forum (Courthouse lawn). The author of the letter, if following the text in similar letters, probably claimed that your action sent “an official message of endorsement of religion over non-religion and of exclusion to the 24% of Americans, including 38% of young Americans, who are not religious.” Assuming that this statistic is correct (which we very much doubt), we and the vast majority (76%) of Americans who are religious thank you for emphasizing the importance of prayer on behalf of our nation, state, and cities.

FFRF also presumably claimed that “the Establishment Clause of the First Amendment prohibits government sponsorship of religious messages.” This 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.” *McCollum*.

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 presumably 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 prayer out of the public arena is offensive to those who believe in the power of prayer and is, frankly, divisive. Declaring prayer “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.

FFRF, you and I share many things in common, including living in a country that protects our rights to free speech and the free exercise of religion (or, for that matter, the free exercise of non-religion). FFRF has every right to speak on its members' non-belief, just like we have a right to speak on behalf of our belief. The people the County may remind about the National Day of Prayer will not be compelled against their will to go to the National Day of Prayer event, nor were FFRF members compelled to go against their will. Although we strongly disagree with the theological positions of FFRF, we will defend its members' right to believe and exercise their belief. We hope they extend to Christians, and particularly Christians in office, the same courtesy.

If we can be of any service to you on this issue, feel free to our office at 757-546-2190. CPCF has First Amendment lawyers on staff who will work with you, without charge, if you need their services. In fact, CPCF's Chief Counsel, James Davids, litigated the issue of whether a local government could bar the National Day of Prayer from the Village Hall. You can read about Mr. Davids' victory in this case at *DeBoer v. Village of Oak Park*, 267 F. 3d 558 (7th Cir. 2001).

To protect our freedom, we must exercise that freedom, and it is encouraging to see your leadership in our First Amendment freedoms.

Sincerely,



Lea Carawan

Executive Director

Congressional Prayer Caucus Foundation

National Strategic Center