

Making Liberty Lemonade From Atheist Lemons

Another day, another secularist attempt at religious cleansing.

The United States Supreme Court, which with jaw-dropping irony opens every session with **prayer**, recently heard—for the umpteenth time—oral arguments on whether local governing bodies can likewise open every session with **prayer**. (The U.S. Congress does it too. Always has.)

The answer, of course, is a resounding yes, and unless the high court goes completely off the rails this time (anything's possible under its presently imbalanced liberal makeup), so it shall remain.

The case is *Town of Greece v. Galloway*. Hyper-litigious **atheists**—always on the prowl for a reason to be offended—sued the town of Greece in upstate New York for, you guessed it, opening its town meetings with prayer (you know, just like nearly every other legislative body in America has done since day one).

Despite overwhelming case precedent to the contrary—and putting the “activism” in “judicial activism”—the 2nd Circuit Court of Appeals inexplicably ruled in favor of the **atheists**.

Notwithstanding, most objective legal scholars agree that the Supreme Court will overturn the lower court's ruling. In light of our government's well-documented prayer-based founding, as well as manifold rulings on past cases, such as *Marsh v. Chambers*—which held that “legislative **prayers**” are “part of the fabric of our society”—even liberals on the high court will find it difficult, if not impossible, to uphold the 2nd Circuit.

Still, this case needn't be a total waste of time and taxpayer money. Liberty Counsel, one of the fastest-growing civil rights firms in America, filed an amicus brief with the high court on behalf of the town of Greece. The legal group has asked the court to, once and for all, clear the air on public prayer while, at the same time, make it less tempting for secularist radicals to file such frivolous and harassing lawsuits. (I recently discussed the case with Mat Staver, founder and chairman of Liberty Counsel, on *Faith and Freedom*, our national radio program.)

In its "friend of the court" brief, Liberty Counsel has recommended that these nine justices take advantage of this otherwise obnoxious exercise in "been there, done that" and make liberty lemonade from atheist lemons.

Specifically, the group has asked the high court to use the Greece case as an opportunity to overturn, once and for all, the so-called "Lemon test" and adopt a new test, which provides that if a religious observance comports with history and does not coerce participation in a religious activity, then it would be deemed a permissible acknowledgment of **religion**.

Notes Mat Staver, "The 'Lemon test,' which the Supreme Court invented, has caused confusion for decades and is not consistent with the First Amendment. It is past time to abandon that judge-made rule and return to the actual words and intent of the **First Amendment**."

Federal lawsuits require that a complainant have standing, which means they must demonstrate they have been injured by an act of government. Over the years, the Supreme Court has loosened the standing requirement for Establishment Clause claims, allowing people to file suit merely because they are offended. In *Lemon v. Kurtzman*, the court ruled that religious activity must be diluted with secular influences. Described as a "ghoul in a late-night horror movie" by Supreme Court

Justices Clarence Thomas and Antonin Scalia, the “Lemon test” has wreaked havoc on **religious liberty**.

“The so-called ‘Lemon test’ allows mere offended observers to overturn years of religious tradition,” says Staver. “The court’s continuing reliance upon the ‘Lemon test’ has meant that the Establishment Clause, designed to prevent federal establishments of religion, has morphed into a weapon aimed at eliminating all vestiges of public religious expression.”

“Regarding the matter of prayer before public deliberative bodies, this is an easy question when the words and intent of the First Amendment control. The same Congress that approved the First Amendment voted to pay a chaplain to open every session with prayer. Under a real First Amendment analysis, this is a no-brainer,” concludes Staver.

Historical revisionists on the left, however, like to pretend it wasn’t so. The American Civil Liberties Union’s promotional materials, for instance, overtly advocate unconstitutional religious discrimination.

“The message of the Establishment Clause is that religious activities must be treated differently from other activities to ensure against governmental support for religion,” they claim.

This is abject nonsense.

As I’ve written before, the First Amendment’s Establishment Clause—a mere 10 words—is the primary tool the left misuses and abuses to accomplish its insurgency. Yet it remains abundantly clear in both scope and meaning. The Establishment Clause merely states, “Congress shall make no law respecting an establishment of religion.”

That’s it.

Let’s break it down. What do you suppose the framers of the

U.S. Constitution—a document specifically designed to limit the powers of federal government—intended with the word *Congress*? Did they mean state government, municipal government, your local school board or third-grade teacher?

Of course not. They meant exactly what they said: Congress—as in the United States Congress.

Now, what did they mean by “shall make no law respecting an establishment of religion”?

Well, in a letter to Benjamin Rush, a fellow signer of the Declaration of Independence, Thomas Jefferson—often touted by the left as the great church-state separationist—answered this question. The First Amendment’s Establishment Clause was simply intended to restrict Congress from affirmatively “establishing,” through federal legislation, a national Christian denomination (similar to the Anglican Church of England).

As Jefferson put it, “The clause of the Constitution” covering “freedom of religion” was intended to necessarily preclude “an establishment of a particular form of Christianity through the United States.”

In a recent editorial, Dr. Robert Jeffress, pastor of the 11,000-member First Baptist Church in Dallas, Texas, summed up quite nicely what’s gone wrong with America’s church-state jurisprudence.

“Activist judges have replaced the word ‘Congress’ with ‘government,’ ‘establishment’ with ‘endorsement,’ and ‘religion’ with ‘**Christianity**,’” he writes, “so that they can eradicate any Christian expression from the public square at the local, state, or national level.”

Indeed, how far from her godly founding has our beloved America strayed. With *Greece v. Galloway*, the Supreme Court has a rich opportunity to right past wrongs and to, once

again, securely fix America to her historical First Amendment moorings.

“In God We Trust” can signify more than just our national motto.

It can, once again and forevermore, signify our national way of life.

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