

# Free Speech and Religion

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The first two Constitutional amendments create considerable confusion, mainly because many discussing them fail to read the text itself, preferring to read what someone else *says* it means, even if that directly contradicts the text itself.

Both free speech and free expression of religion have popular fads today advocating for restricting them, and those promoting censorship or religious restrictions haven't read the documents they claim support their opinion.

## 1 THE EXAMPLE

An article appearing on Huffington Post described a political debate regarding the confusing First Amendment.\*

*In the evening's most bizarre exchange, Mandel insisted there is no separation between church and state in the United States — the literal First Amendment of the Constitution.*

What caused such a response? A person must have made a stunningly large error to promote such a visceral, definitive response . . . on the order of claiming the earth is flat. Liz used this quote in the article, presumably it's the one troubling her:

*"When you read the United States Constitution, nowhere do you read about the separation of church and state. It does not exist," he said, followed by an audible gasp from the audience.*

Time for a booth review. What is, as Liz says, the *literal* First Amendment regarding "separation of church and state?"

*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*

Hmmm. Liz has a problem. The *literal* text she refers to lacks the words often attributed to it — separation of church and state. Let's break down the text, considering the relevant part regarding religion. Key to analysis are:

- Subject (WHO)
- Verb (did WHAT)
- Object (to WHOM)
- Adjectives (Additional information)

It's clear the subject is Congress. The verb is also clear: *make no law*. The First Amendment says Congress shall make no law, but what *kind* of law? The amendment lists two (regarding religion):

1. Establishing a national religion
2. Prohibiting the free exercise of religion

Congress can't replicate the Church of England, for example. Or force people to attend (or not attend) church. The First Amendment places two limits on Congress' law-making powers. Nothing on private citizens. Nothing on building usage. Nothing on religious content in speeches. Nothing on prayer before events.

The article said ". . . separation between church and state in the United States — the *literal First Amendment* of the Constitution." After reading the *literal* text, it's abundantly clear the article is 100% factually incorrect; the phrase "separation of church and state" makes no appearance in the First Amendment, as is claimed by the HuffPost commentary (similar phrases *do* appear in other writings, which may be the source of the commentator's error).

The First Amendment states Congress can't force you to attend religious services (i.e. a national religion) OR prohibit you from observing the religion of your choice. The magic word "separation" doesn't appear; far from an atheist-view of history, previous documents and rulings regarding religious traditions do appear, as SCOTUS ruled in 1952:†

\* Huffington Post: *A Hard-Right Republican And A Progressive Debated. It Went As Well As You'd Expect.* [https://web.archive.org/web/20220128192310/https://www.huffpost.com/entry/josh-mandel-morgan-harper-debate-ohio\\_n\\_61f2d761e4b0061af25c1d08](https://web.archive.org/web/20220128192310/https://www.huffpost.com/entry/josh-mandel-morgan-harper-debate-ohio_n_61f2d761e4b0061af25c1d08)

† *Zorach v. Clauson*, 343 U. S. 306 (1952), page 8–9 of PDF

*We are a religious people whose institutions presuppose a Supreme Being. . . . When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs.*

*To hold that it may not would be to find in the Constitution a requirement that the government show a callous indifference to religious groups.*

The current fad claiming prayer before events violates the First Amendment runs into problems with history; **HINDS' PRECEDENTS OF THE HOUSE OF REPRESENTATIVES\*** from 1907 proves Congress itself had no issue with it.

*Before the election of officers the House has provided for opening its sessions with prayer.— On January 23, 1856, before the election of a Speaker or the adoption of rules, Mr. James F. Dowdell, of Alabama, offered a preamble and resolution reciting the propriety of the House showing their reverence for God, and resolving that the daily sessions be opened with prayer, and providing that the ministers of the gospel in the city be requested to attend and perform the duty alternately.*

*This motion was agreed to. Later in the session, after the organization of the House, a Chaplain was elected.*

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About 100 years after the founding of the country, Congress continued having no constitutional issues opening sessions in prayer, obviously not agreeing with current fads of total separation of church and state. The idea prayer before events violates the Constitution is a *recent* claim, unsupported by history.

*December 10, 1857, after a parliamentary struggle of considerable intensity, the following preamble and resolutions, submitted by Mr. James F. Dowdell, of Alabama, were agreed to:*

*Whereas the people of these United States, from their earliest history to the present time, have been led by the hand of a kind Providence and are indebted for the countless blessings of the past and the present and dependent for continued prosperity in the future upon Almighty God; and whereas the great vital and conservative element in our system is the belief of our people in the pure doctrines and divine truths of the Gospel of Jesus Christ, it eminently becomes the representatives of a people so highly favored to acknowledge in the most public manner their reverence for God:*

*Therefore, Be it resolved, That the daily sessions of this body be opened with prayer.*

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Historically Liz's claim doesn't hold up; her commentary reveals gaping holes contradicting both history and the text of the First Amendment.

It's possible never reading the actual text of The Constitution might allow an impression it speaks of a wall of separation (as it's a popular fad), but reading historical documents shows the current atheistic view of government isn't true. Read original documents for yourself, not only is the phrase nonexistent in the First Amendment, the First Amendment places two restrictions on Congress' law-making ability involving religion.

Not citizens' ability to free speech, nor ability to follow whatever faith (or none) as you wish (it should go without saying if your free speech advocates violence, mayhem, or similar, or your religion promotes illegal activities, that's a problem).

For a long time liberal, conservative, and in-between justices held the strongest protection for free speech and religion; the idea speech and religion should be limited (censored) and the nation should be atheist are *recent* ideas, and history shows censorship never ends well. Maximum freedom to speak and follow whatever religion you choose must be the order, with minimal interference (i.e. "strict scrutiny"<sup>†</sup>)

*Under strict scrutiny, the government must show that there is a compelling, or very strong, interest in the law, and that the law is either very narrowly tailored or is the least speech restrictive means available to the government.*

Finally, for those believing the opposite of the atheist view is a government theocracy, consider two things:

1. The First Amendment *DOES* preclude creating a national religion.
2. Theocracies may not end well, and can easily descend into another form of tyranny.

Avoiding both bad endings remains simple by adhering to the First Amendment: maximum freedom both to speech, and religion. That means no national rules establishing a national religion (i.e. Church of England), *nor* prohibiting it; if a group wants to pray before events, that's free expression of religion — as long as it does not come mandated from a Congressional law.

## 2 LOGIC 101 — THINK FOR YOURSELF

You're free to shout from the rooftops the earth is flat if you wish; the truth or falsity of a claim must not matter to whether the speech is protected or not. How many ideas were "common knowledge" "everyone knew" throughout history which later turned out to be false?

- The earth is flat
- Leaching cures illness

\* <https://www.govinfo.gov/content/pkg/GPO-HPREC-HINDS-V1/pdf/GPO-HPREC-HINDS-V1.pdf>

† <https://web.archive.org/web/20220917100816/https://www.mtsu.edu/first-amendment/article/1966/strict-scrutiny>

- Piltdown man\*
- Only witches float†
- Cannon fire smoke and beak masks prevents plague‡
- Non Quantum-mechanics views of Physics

What if Einstein was censored for his relativity theory because “everyone knew” classical mechanics was correct and relativity was wrong? “Most scientists (or any other group) agree. . .” proves nothing, and through history major agreement among “experts” later proves false.

Those are known as the argument from majority and authority and stumble many people. Everyone — or nobody — believing an idea holds zero relevance to whether it’s *true*. Neither does the *source* of information; “I don’t accept that because it came from \_\_\_\_”.

Which is *why* silencing free speech creates problems, stifles debate and science, and allows some entity (government or otherwise) to determine what *you* should hear about. That censoring entity often has an agenda *other* than the free exchange of ideas.

If a person wants to talk about the earth being flat, go right ahead while the rest of us laugh. But censoring ideas? Bad idea. Let people talk. If they present ridiculous ideas, the lack of credibility will be exposed for everyone to see.

### 3 READ FOR YOURSELF

Liz’s article highlights a major issue today — some call it mistrust in media, misinformation, fake news, or propaganda.

No matter what you call it, when someone says “the Constitution says. . .” or “politician xyz said” or “the court ruled. . .” go to the source and read it for yourself. Almost everything (government wise at least) is available on-line. Speeches, court rulings, laws, the Constitution, are all available for you to read.

It may be harder to find older pre-internet source documents, and in those cases little other choice exists but to rely on third-party sources. Do your best to confirm and read original sources as much as possible.

Don’t accept without verifying first. Some spin, some lie, some try to deceive you (and a few make honest

mistakes). Just because CNN, PBS, Associated Press, MSNBC, Fox, ABC, Telegraph, USA Today, and your local paper *all* report the same information, it’s possible all use the same (possibly unverified) source. If they cite a source, verify information isn’t out of context or misquoted to support an entirely different conclusion from what the original intended.

Read for yourself and come to your own conclusions, as when someone says “this is literally. . .” you might discover it’s literally 100% factually incorrect.

It’s vital to read different sources. Various “news” outlets ignore stories they don’t like, or spin them so bad it bears little resemblance to truth. Read left, right, up, and down sources. Finally, in opposition to the fad of censorship I’ll toss my hat in with the following idea from JFK’s “Remarks on the 20<sup>th</sup> anniversary of the Voice of America:”§

*We welcome the views of others. We seek a free flow of information across national boundaries and oceans, across iron curtains and stone walls. We are not afraid to entrust the American people with unpleasant facts, foreign ideas, alien philosophies, and competitive values.*

*For a nation that is afraid to let its people judge the truth and falsehood in an open market is a nation that is afraid of its people.*

And for Christians remember anti-science is Anti-God¶ — examine data, see if your ideas match reality (raw experimental results), then modify your ideas based on actual data (that’s the scientific method).

### 4 TWO SIMPLE IDEAS

1. Read sources for yourself (and think critically)
2. Be open to new ideas and resist attempts to silence them (i.e. censorship is bad)

Lather. Rinse. Repeat.

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<https://www.dyeager.org/>

\* <https://web.archive.org/web/20210321122056/https://blogs.loc.gov/folklife/2016/08/folklore-piltdown-man-hoax/>

† <https://web.archive.org/web/20221028035220/https://blogs.loc.gov/law/2022/02/swimming-a-witch-evidence-in-17th-century-english-witchcraft/>

‡ <https://web.archive.org/web/20210624025118/https://www.livescience.com/plague-doctors.html>

§ John F. Kennedy, Papers of John F. Kennedy. Digital Identifier: JFKPOF-037-020-p0001 <https://www.jfklibrary.org/asset-viewer/archives/JFKPOF/037/JFKPOF-037-020>

¶ <https://www.dyeager.org/post/logic-101-series-part4-scientific-method.html>