



Written by [Bob Adelman](#) on August 2, 2022

Christian Flag Will Fly Tomorrow in Boston

Following the unanimous Supreme Court ruling in [Shurtleff v. City of Boston](#), Camp Constitution [will fly its Christian flag](#) on one of the three flagpoles outside Boston City Hall on Wednesday morning.

It will be the last time any such flag will fly there, as Boston has changed its rules, thanks to the Supreme Court decision.

The implications are immense, and reach further than many expected. The city declined Camp Constitution's initial request five years ago for fear that it would somehow violate the faux "separation of church and state" mantra adopted by anti-Christian forces.



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Simply put, the faux reasoning is based on a letter Thomas Jefferson wrote to a religious group. There was no other basis for thinking that the Founders meant to keep Christianity from having an influence in American culture. There is no phrase "separation of church and state" in the Constitution, nor can it be found elsewhere in America's founding documents.

The Supreme Court, however, ruled that Boston's defense was faulty, and that the city violated Camp Constitution's right to free speech when it denied its request to fly the Christian flag from that flagpole five years ago.

The ruling forced Boston to change its rules. It is also forcing numerous towns, cities, and municipalities to reconsider their own rules, in favor of free speech, and away from concerns over violating the nebulous but dangerous "separation of church and state" thought to be part of the Constitution.

Since 1971, the Supreme Court used something called the "Lemon Test" to handle the cases that came their way: the government (local, state, or federal) violated the Constitution unless it met the Lemon Test criteria:

1. Did it have a secular, or non-religious, purpose?;
2. Did it advance or inhibit a religion?;
3. Did it promote an "extreme entanglement" with religion on the government's part?

As Supreme Court Justice Brett Kavanaugh wrote in his concurrence in *Shurtleff*:

This dispute arose only because of a government official's mistaken understanding of the Establishment Clause.

A Boston official believed that the City would violate the Establishment Clause if it allowed a religious flag to briefly fly outside of City Hall as part of the flag-raising program that the City had opened to the public.



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So Boston granted requests to fly a variety of secular flags, but denied a request to fly a religious flag.

As this Court has repeatedly made clear, however, a government does not violate the Establishment Clause merely because it treats religious persons, organizations, and speech equally with secular persons, organizations, and speech in public programs, benefits, facilities, and the like.

On the contrary, a government violates the Constitution when (as here) it excludes religious persons, organizations, or speech because of religion from public programs, benefits, facilities, and the like.

Under the Constitution, a government may not treat religious persons, religious organizations, or religious speech as second-class.

Justice Neil Gorsuch, in his concurring opinion, made it even clearer:

Lemon sought to devise a one-size-fits-all test for resolving Establishment Clause disputes. That project bypassed any inquiry into the Clause's original meaning. It ignored longstanding precedents. And instead of bringing clarity to the area, Lemon produced only chaos.

In time, this Court came to recognize these problems, abandoned Lemon, and returned to a more humble jurisprudence centered on the Constitution's original meaning.

Yet in this case, the city chose to follow Lemon anyway. It proved a costly decision, and Boston's travails supply a cautionary tale for other localities and lower courts.

The attack on Christianity continues, despite the high court's shift to originalism. Wrote Gorsuch:

This is why some still invoke Lemon today. It reflects poorly on us all.

Through history, the suppression of unpopular religious speech and exercise has been among the favorite tools of petty tyrants.

Our forebears resolved that this Nation would be different. Here, they resolved, each individual would enjoy the right to make sense of his relationship with the divine, speak freely about man's place in creation, and have his religious practices treated with respect.

The day governments in this country forage for ways to abandon these foundational promises is a dark day for the cause of individual freedom.

The high court has abandoned the Lemon test, to the benefit of all who cherish religious freedom. In recent cases it ruled that a football coach shouldn't have lost his job merely because he prayed on the football field after a game. It also ruled that religious schools in Maine must be allowed to participate in the state's voucher system.

The "separation of church and state" canard, promoted for so long by so many opposed to the impact Christianity has on American culture, is now on the wane at the highest court in the land.

And all because of its return to "originalism" — restoring the understanding of the Constitution as its



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writers originally intended. That's what makes tomorrow's flag raising in Boston so important.

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