



Written by [Joe Wolverton, II, J.D.](#) on June 14, 2018

## Should Something Separate Church and State?

From [bakers](#) to [calligraphers](#), [photographers](#) to [florists](#), religious expressions that takes a hard line against behavior believers consider contrary to the commandments are being [banned from the public sphere](#).

The institutional assault on the free exercise of religion is so regular and retributive, in fact, that day after day headlines reveal that the religious test for public and private activity that was once *de facto* is gradually being made *de jure*.



Such a scenario — using one's faith as a potential disqualifying factor for recognizing his authority — is particularly disturbing to Americans familiar with the history of religious tests that were once a tool of the intolerant, making certain creeds ineligible for something as critical to our form of government as holding political office.

The constitutional clash between church and state, faith and politics, was one of the debates that took center stage this week in 1787 at the Constitutional Convention in Philadelphia.

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During the week of June 11 to June 15, state delegates to the Constitutional Convention wrangled over whether to impose religious tests for legislators who would hold office under a new federal constitution.

The representatives working on a draft of a new constitution for the American union were aware that many of the state constitutions in operation at that time required candidates for public office to pass religious tests of varying strictness.

For example, Article XXII of the Delaware Constitution of 1776 read:

Every person who shall be chosen a member of either House, or appointed to any office or place of trust, before taking his seat, or entering upon the execution of his office, shall take the following oath, or affirmation, if conscientiously scrupulous of taking an oath, to wit:

'I \_\_\_\_\_, will bear true allegiance to the Delaware State, submit to its constitution and laws, and do not act wittingly whereby the freedom thereof may be prejudiced,' and also make and subscribe the following declaration, to wit:

'I \_\_\_\_\_, do profess faith in God the Father, and in Jesus Christ His only Son, and in the Holy Ghost, One God, blessed for evermore; and I do acknowledge the holy scriptures of the Old Testament and New Testament to be given by Divine Inspiration.

Chapter VI, Article I of the Massachusetts Constitution of 1780 similarly mandated:

Any person chosen governor, lieutenant-governor, councilor, senator, or representative, and accepting the trust, shall, before he proceed to execute the duties of his place or office, make and subscribe the following declaration, viz:

'I, A.B., do declare that I believe the Christian religion, and have a firm persuasion of its truth; and



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that I am seized and possessed, in my own right, of the property required by the constitution as one qualification for the office or place to which I am elected.

Next, the North Carolina Constitution of 1776 declared:

That no person who shall deny the being of God, or the truth of the Protestant religion, or the divine authority of either Old or New Testaments, or who shall hold religious principles incompatible with the freedom and safety of the State, shall be capable of holding any office, or place of trust or profit, in the civil department, within this State.

The Pennsylvania state constitution likewise imposed a religious test on office holders:

And each member, before he takes his seat, shall make and subscribe the following declaration, viz:

I do believe in one God, the creator and governor of the universe, the rewarder of the good and the punisher of the wicked. And I do acknowledge the Scriptures of the Old and New Testament to be given by Divine inspiration.

Finally, this was the test imposed by the Vermont Constitution of 1777:

And each member, before he takes his seat, shall make and subscribe the following declaration, viz.

‘I \_\_\_\_\_ do believe in one God, the Creator and Governor of the Diverse, the warder of the good and punisher of the wicked. And I do acknowledge the scriptures of the old and new testament to be given by divine inspiration, and own and profess the protestant religion.’

There they stood, these delegates representing the people of 12 of the 13 states, many of whom came from states with strict religious tests such as those laid out above. They recognized that they had no authority to alter the constitutions operable in the sovereign states from which they came, but they likewise understood that they would be the drafters of a new federal constitution for the union of the sovereign states and that as such they would determine whether federal legislators, judges, presidents, or other elected officeholders would be subject to religious tests such as those imposed in the states.

Remarkably, both the Virginia Plan — that proposal that occupied most of the debates — and the New Jersey Plan (patterned so as to benefit smaller states) were silent on this crucial subject.

Most delegates seemed content to ignore the matter, preferring to leave the issue up to the states from which federal officials would come. Charles Pinckney of South Carolina was not satisfied with the silence, however.

Standing before his colleagues at the Convention, Pinckney offered the following proposal for a provision in the new federal constitution under consideration: “No religious test or qualification shall ever be annexed to any oath of office under the authority of the United States.”

Incredibly, when the Committee on Detail presented the final draft of the Constitution for one last debate, Pinckney’s ban on religious tests was left out!

Accordingly, when that part of the draft came up for consideration, Pinckney rose again, this time offering the following change to the text: “No religious test shall ever be required as a qualification to any office or public trust under the authority of the United States.”

Although Roger Sherman of Connecticut thought the proposed provision was unnecessary (again,



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arguing that such matters should be left within the purview of the sovereign states), Pinckney's motion was approved unanimously. Pinckney's proposal exists today in Article VI, which reads in relevant part: "No religious Test shall ever be required as a Qualification to any Office or public Trust under the United States."

In the intervening 231 years since that provision was made a part of our Constitution, it seems we've returned to a time when religious tests are becoming a common part of political life. Only this time around, rather than being necessary in order to hold office or participate in politics, Christianity is the easiest way to be disqualified from any allowable public or private expression.

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