

FREEDOM FROM RELIGION *foundation*

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June 25, 2013

SENT VIA MAIL AND EMAIL webmaster@creekcountyonline.com

Ms. Jennifer Mortazavi
Creek County Clerk
317 E. Lee, Ste. 100
Sapulpa, OK 74066

Re: Creek County Website endorsing religion, disparaging nonbelievers

Dear Ms. Mortazavi:

I am writing on behalf of the Freedom From Religion Foundation ("FFRF"), to alert you to a serious constitutional concern on the Creek County website. A concerned county resident contacted us about this violation. FFRF is a national nonprofit organization with over 19,000 members across the country, including members in Oklahoma. Our purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that the Creek County website, www.creekcountyonline.com, contains a partial, out-of-context quote that endorses religion and disparages nonbelievers:

'The Hand of providence has been so conspicuous in all this, that he must be worse than an infidel that lacks faith, and more than wicked, that has not gratitude enough to acknowledge his obligations.' --George Washington

A screenshot of is enclosed. The use of this quote presents serious legal, constitutional, and historical problems for the Creek County government and the quote should be removed immediately.

The Government Cannot Endorse Religion over Nonreligion

Placing this quote on the official government website is constitutionally problematic. Its use amounts to a governmental endorsement religious belief over nonbelief. The Supreme Court has explicitly rejected the idea that the Establishment Clause only prohibits sectarian preference: "this Court has rejected unequivocally the contention that the Establishment Clause forbids only governmental preference of one religion over another." *Abington School District v. Schempp*, 374 U.S. 203, 216 (1963).

"At one time it was thought that this right merely proscribed the preference of one Christian sect over another, but would not require equal respect for the conscience of the infidel, the atheist, or the adherent of a non-Christian faith such as Islam or Judaism. But when the underlying principle has been examined in the crucible of litigation, *the Court has unambiguously concluded that the individual freedom of conscience protected by the First Amendment embraces the right to select any religious faith or none at all*. This conclusion derives support not only from the interest in respecting the individual's freedom of conscience, but also from the conviction that religious beliefs worthy of respect are the product of free and voluntary choice by the faithful, and from recognition of the fact that the political interest in *forestalling intolerance extends beyond intolerance among Christian sects-or even intolerance among 'religions'-to encompass intolerance of the disbeliever and the uncertain.*" *Wallace v. Jaffree*, 472 U.S. 38, 52-54 (1985) (emphasis added and notes omitted).

Creek County is prohibited from endorsing religion over nonreligion just as it is prohibited from endorsing one religious sect over another. The Supreme Court has driven this point home time and again. The First Amendment “requires the state to be a neutral in its relations with groups of religious believers and non-believers.” *Everson v. Board of Ed.*, 303 U.S. 1, 18 (1947). In, *Texas Monthly, Inc. v. Bullock*, the Court explicitly stated that the “government may not favor religious belief over disbelief.” 489 U.S. 1, 27-28 (1997) (separate opinion concurring in judgment).

In *Schempp*, the Court wrote “[t]he fullest realization of true religious liberty requires that government ... effect no favoritism among sects or between religion and nonreligion.” 374 U.S. at 305 (1963)(Goldberg, J., concurring).

“[T]he prohibition against governmental endorsement of religion ‘preclude[s] government from conveying or attempting to convey a message that religion or a particular religious belief is favored or preferred.’ *Allegheny v. ACLU*, 492 U.S. at 593 quoting *Wallace v. Jaffree*, 472 U.S., at 70, (O’Connor, J., concurring in judgment)(additional emphasis added). Justice O’Connor also wrote: “The Establishment Clause, at the very least, prohibits government from appearing to take a position on questions of religious belief or from ‘making adherence to a religion relevant in any way to a person’s standing in the political community.’ ” *Id.*, at 593-94 quoting *Lynch v. Donnelly*, 465 U.S., at 687 (O’Connor, J., concurring).

This quote on the official Creek County website proclaims, for all citizens to see, that the county prefer religion to nonreligion, sending an unconstitutional, distasteful and even threatening message that it prefers religious citizens to the 20% of the citizenry that is nonreligious.

This quote disparages those with no religious faith.

This particular quote, pulled out-of-context, does more than just endorse religion over nonreligion: it disparages nonreligious Americans. According to recent studies 1-in-3 Americans aged 18 to 30 and 1-in-5 adult Americans of any age are nonbelievers.¹ Although some of us choose to wear the term “infidel” as a badge of courage, the government cannot label us “wicked” for our lack of religious beliefs.

Moreover, the government is expressly prohibited from disparaging the religious beliefs, or lack thereof, of its citizens. The Tenth Circuit, citing four Supreme Court cases, wrote that government must act “in a way that neither endorses nor disparages a particular religion or religion in general. Indeed, the Supreme Court has repeatedly stated that the [Constitution is violated] if official action, regardless of its purpose, ‘conveys a message of endorsement or disapproval’ of religion.” *Roberts v. Madigan*, 921 F.2d 1047, 1054-55 (10th Cir. 1990) citing *Wallace v. Jaffree*, 472 U.S. 38, 56 n. 42 (1985); *School District of Grand Rapids v. Ball*, 473 U.S. 373, 389 (1985); *Lynch v. Donnelly*, 465 U.S. 668, 690 (1984); and *Lemon* 430 U.S. at 619. See also *O'Connor v. Washburn Univ.*, 416 F.3d 1216, 1224 (10th Cir. 2005).

Put simply, government power cannot be “exploited to proselytize or advance any one, or to disparage any other, faith or belief.” *Marsh v. Chambers*, 463 U.S. 783 (1983). This quote disparages the choice of Americans to not adhere to a religion and must be removed.

¹ According to USA Today, a recent Pew Center survey found that 19%, or 1 in 5 adult Americans have no religious belief. <http://www.usatoday.com/news/religion/story/2012-07-19/no-religion-affiliation/56344976/1>. The Pew Forum on Religion & Public Life Religion Among the Millennials, 2010, shows that “fully one-in-four adults under age 30” are atheist, agnostic or “nothing in particular.”

The full quote and letter give a different meaning than the out-of-context quote

It is a common talking point for religious fundamentalists to claim that the Founders, in their creation of the Republic, attempted to create a Christian nation. This is accomplished by pulling quotes out of context and other methods of warping our history. We are concerned that you may have been seduced by this revisionist notion, which could not be further from the truth.

Your Washington quote is held up to endorse religion over nonreligion. But many of the Founders, including Washington had a low opinion of orthodoxy.² On the rare occasions he actually attended church (perhaps 12 times a year pre-presidency and only three times in his last three years) Washington refused to take communion, even though his wife did.³ When asked specifically if Washington was a “communicant of the Protestant Episcopal church,” Bishop William White, who officiated in churches Washington occasionally attended wrote, “truth requires me to say that Gen. Washington never received the communion in the churches of which I am the parochial minister. Mrs. Washington was an habitual communicant.”⁴

Washington refused to kneel in prayer at church⁵ and certainly did not pray at Valley Forge. Historians agree that the Valley Forge prayer did not happen. There is no contemporaneous report to verify it and the original report is from *The Life of Washington*, by Parson Mason Weems, who did not include the story until the 17th edition and also gave us the myth of Washington and the cherry tree.⁶

Washington refused to have a priest or religious rituals at his deathbed. As Historian Joseph J. Ellis put it, “there were no ministers in the room, no prayers uttered, no Christian rituals offering the solace of everlasting life. ... He died as a Roman stoic rather than a Christian saint.”⁷

In all of Washington’s correspondence, including the letter you cited and “several thousand letters[,] the name of Jesus Christ never appears, and it is notably absent from his last will.”⁸

The Founders feared what would happen when government officials brought religion into the statehouse. That is why they drafted a Constitution that effectively formed “a wall of separation between church and state.”⁹ This is perfectly exemplified in the rest of Washington’s sentence — cut off by your website. (Washington’s full, original letter is enclosed). The full quote reads (emphasis added):

The hand of Providence has been so conspicuous in all this, that he must be worse than an infidel that lacks faith, and more than wicked, that has not gratitude enough to acknowledge his obligations, but, ***it will be time enough for me to turn preacher, when my present appointment ceases; and, therefore, I shall add no more on the Doctrine of Providence***, but make a tender of my best Respects to your good Lady, the Secretary and other Friends and assure you that with the most perfect Regard,

I am, Dear Sir, Your Affectionate and obliged ... servant,
G. Washington

² See, Ron Chernow, *Washington: A Life* (Penguin, 2010); Edward G. Lengel, *Inventing George Washington* (Harper Collins Publishers, 2011); Joseph J. Ellis, *His Excellency: George Washington* (First Vintage Books Edition, 2005); Brooke Allen, *Moral Minority: Our Skeptical Founding Fathers*, (Ivan R. Dee Publisher 2006).

³ Allen at 31; Lengel at 13 (Harper Collins Publishers, 2011); Chernow at 131.

⁴ Bishop William White, letter to Colonel Mercer, Aug. 15, 1835.

⁵ Lengel at 13, 91; Chernow at 131; Ellis at 45.

⁶ Lengel at 13, 22-23, 76-86; Chernow at 131.

⁷ Ellis at 269. See also Chernow.

⁸ Gen. A.W. Greely, “Washington's Domestic and Religious Life,” *Ladies' Home Journal* (April, 1896). See also, Lengel at 13.

⁹ Letter from Thomas Jefferson to the Danbury Baptists (Jan. 1, 1802).

This letter shows Washington's discomfort with and rejection of mixing religion in his official capacity. He was unwilling to discuss it at any length until his "present appointment cease[d]" – his appointment as commander of the Continental Army. He wrote this letter in 1778. In other words, Washington preferred to keep his religious beliefs out of his public office even before the First Amendment or Constitution were ratified. He followed this principle throughout his political career — so should Creek County.

The official posting of this quote on the Creek County website illegally endorses religion over nonreligion, unconstitutionally disparages the beliefs of millions of Americans, and violates the very principle Washington was espousing in his letter. It should be immediately removed. May we hear from you, in writing, at your earliest convenience?

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrew L. Seidel". The signature is fluid and cursive, with the first name "Andrew" and last name "Seidel" clearly distinguishable.

Andrew L. Seidel
Staff Attorney