

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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FREEDOM FROM RELIGION	)	
FOUNDATION, INC.	)	
P. O. Box 750	)	
Madison, Wisconsin 53701,	)	
	)	Case No. _____
Plaintiff,	)	
	)	Civil Action
vs.	)	
	)	<b>COMPLAINT</b>
REPRESENTATIVE RICK SACCONI	)	
Pennsylvania House of Representatives	)	Jury Trial Not Requested
6B East Wing	)	
Harrisburg, Pennsylvania 17120-2039,	)	
	)	
CLANCY MYER, Parliamentarian	)	
Pennsylvania House of Representatives	)	
133 Main Capitol Building	)	
Harrisburg, Pennsylvania 17120-2020,	)	
	)	
and	)	
	)	
ANTHONY FRANK BARBUSH,	)	
Chief Clerk, Pennsylvania House	)	
of Representatives,	)	
129 Main Capitol	)	
Harrisburg, Pennsylvania 17120-2020,	)	
	)	
Defendants.	)	

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The plaintiff, as its Complaint against the defendants, alleges as follows:

1. The Pennsylvania House of Representatives has recognized Christianity as the endorsed state religion in a resolution unanimously passed on January 24, 2012, declaring 2012 to be the "Year of the Bible;" the House Resolution exhorts citizens and government officials to "study and apply the teachings of the Holy Scriptures."

2. The plaintiff seeks a declaration under 28 USC §2201 that the Year of the Bible Resolution violates the Establishment Clause of the First Amendment to the Constitution of the

United States, as well as Article I, section 3 of the Constitution of the State of Pennsylvania. Plaintiff further requests that the Court enjoin the defendants from further enactments and publication of resolutions establishing and endorsing a state-sanctioned religion.

3. This Court has federal question jurisdiction pursuant to 28 USC §1331 with respect to the prospective and equitable relief sought against the defendants. In addition, this Court has jurisdiction pursuant to 28 USC §1343(a)(3). The Court also has the authority to issue a declaratory judgment under 28 USC §2201. Finally, the Court has the authority to order injunctive relief under 28 USC §1343 and Fed. R. Civ. P. 65.

4. Venue is appropriate in the District Court for the Middle District of Pennsylvania, pursuant to 28 USC §1391(e), because the defendants reside within this judicial district and because the actions giving rise to the claims occurred within the district.

5. The plaintiff, Freedom From Religion Foundation, Inc. ("FFRF"), is a non-profit corporation that advocates for the separation of church and state and educates on matters of non-theism.

6. FFRF has more than 17,500 members, residing in every state of the United States and the District of Columbia, including at least 599 members in the State of Pennsylvania, as well as a local chapter of FFRF, i.e., Nittany Freethought, with director Chuck Berry.

7. FFRF represents and advocates on behalf of its members throughout the United States.

8. FFRF's membership includes individuals residing in Pennsylvania who have had direct and unwanted exposure to the Year of the Bible Resolution and the hostile environment created thereby as a result of the official declaration of a state religion by the Pennsylvania Legislature; such membership includes at least the following: Carl H. Silverman, Justin Vacula, Charlie Miller, Steve Brungard, Michele Grant, John Kelley, Daniel Gallagher, Joyce

McChesney, Neil Miller, Heather Miller, Steve Barry, Ryan Foster, Tom Melchiorre, Bob Schachner, Dan Reiff, Harry Geedey, Daniel Matesic, Karl Best, Nicolas Posey, Andrea McCormick, Thomas Johnson, Chuck Berry, Jim Phynn, Erin Kowal, Phillip Lichtenberg, Len Frankel, T. Alexander O'Hare, David Mullinax, Scott Rhodes, Ed Avery-Natale, Wayne Trotta, Frank McGovern, William Wisdom, Stephanie Strazisar, John Murray, Lanny Silks, Bruce Baldwin, Susan Hanna, James Villere, Regis Sabol and Patrick Hughes; individual members of FFRF oppose governmental speech endorsing religion because they are made to feel as if they are political outsiders, and each of them are members of FFRF that would have individual standing and who are supportive of the claims made in this Complaint.

9. The defendant, Representative Rick Saccone, is an elected member of the Pennsylvania House of Representatives, with a district office located at 1002 Old Hickory Lane, Jefferson Hills, PA 15025, and an official office in the House of Representatives at 6B East Wing, P. O. Box 202039, Harrisburg, Pennsylvania 17120-2039.

10. The defendant, Anthony Frank Barbush, is the Chief Clerk of the Pennsylvania House of Representatives, with a principal professional place of occupation at 129 Main Capitol, Harrisburg, Pennsylvania 17120-2020.

11. The defendant, Clancy Myer, is the Parliamentarian of the Pennsylvania House of Representatives, with a principal professional place of occupation at 133 Main Capitol Building, Harrisburg, Pennsylvania 17120-2020.

12. The defendant Saccone first issued a Memorandum to all members of the Pennsylvania House of Representatives, on November 1, 2011, advising that he would soon be introducing a resolution declaring 2012 as the "Year of the Bible" in Pennsylvania.

13. The defendant Saccone explained the supposed purpose of such a resolution, noting that "as not only Pennsylvania, but the United States, continues to face great tests and

challenges, we must look to our faith in God and the Holy Scripture to provide us with the strength and courage to face these great trials."

14. The defendant Saccone concluded his Memorandum to House members by encouraging them to "join me in sponsoring this important legislation."

15. The defendant Saccone subsequently was the principal sponsor of House Resolution 535, which passed the House by a vote of 193-0 on January 24, 2012.

16. H.R. 535 declares 2012 as the Year of the Bible "in recognition of both the [alleged] formative influence of the Bible on our Commonwealth and nation and our national need to study and apply the teachings of the Holy Scriptures."

17. The defendant Saccone proffered H.R. 535 as a "noncontroversial" resolution, which allowed the House of Representatives to vote without debate on the resolution as part of a bundled group of resolutions on the same day it was introduced.

18. Some Pennsylvania House of Representatives members who voted for the Resolution subsequently have complained that H.R. 535 was, in fact, controversial, and some representatives voted unknowingly for it as a buried item in a bundle of unrelated resolutions.

19. H.R. 535 was classified, moreover, as a "simple resolution" that needed only to be passed by one House of the Pennsylvania General Assembly, in this case, the House of Representatives.

20. H.R. 535 was subsequently filed and published by the defendants Barbush and Myer, who listed and published the Resolution, including on the House website, with anticipated publication and distribution of the Resolution to the media and the public.

21. The Year of the Bible Resolution has subsequently been reported upon extensively and widely published by the media throughout the State of Pennsylvania, including on internet web sites.

22. The House Resolution declaring 2012 as the Year of the Bible in Pennsylvania has been very divisive because of its exclusive endorsement of the Bible and its teachings as constituting the state-sanctioned religion of Pennsylvania, the principles of which allegedly should be studied and acted upon by government officials and the public.

23. The full text of H.R. 535 is as follows:

Declaring 2012 as the "Year of the Bible" in Pennsylvania.  
WHEREAS, The Bible, the word of God, has made a unique contribution in shaping the United States as a distinctive and blessed nation and people; and  
WHEREAS, Deeply held religious convictions springing from the holy scriptures led to the early settlement of our country; and  
WHEREAS, Biblical teachings inspired concepts of civil government that are contained in our Declaration of Independence and the Constitution of the United States; and  
WHEREAS, Many of our great national leaders, among them President Washington, President Jackson, President Lincoln, President Wilson and President Reagan, paid tribute to the influence of the Bible in our country's development, as exemplified by the words of President Jackson that the Bible is "the rock on which our Republic rests"; and  
WHEREAS, The history of our country clearly illustrates the value of voluntarily applying the teachings of the scriptures in the lives of individuals, families and societies; and  
WHEREAS, This nation now faces great challenges that will test it as it has never been tested before; and  
WHEREAS, Renewing our knowledge of and faith in God through holy scripture can strengthen us as a nation and a people; therefore  
be it  
RESOLVED, That the House of Representatives declare 2012 as the "Year of the Bible" in Pennsylvania in recognition of both the formative influence of the Bible on our Commonwealth and nation and our national need to study and apply the teachings of the holy scriptures.

24. H.R. 535 was intended to give actual endorsement of religion, and more particularly, endorsement of the theology of the Christian Bible.

25. The defendant Saccone admits that H.R. 535 was intended to recognize an integral relationship between church and state, noting publicly that "God has always been a part

of our government."

26. The defendant Saccone has responded to the controversy surrounding H.R. 535 by admittedly attempting to justify the incorporation of God into government. The defendant has stated in a published account that "of course, after our resolution, a few complained and aired the same false arguments that God was never a part of our founding and we should not include God in government, but that is easily refuted."

27. The defendant Saccone further stated in published accounts that "the notion that God or the Bible was ever separate from government in this regard is a denial of history."

28. The defendant Saccone also has attempted to justify the religious endorsement of H.R. 535 by even claiming falsely that "the Bible was a textbook in our public schools for 150 years."

29. The defendant Saccone, in short, defiantly dismisses critics of H.R. 535 by acknowledging the intent to integrate religion as part of government: "I think the unanimous vote in the state House last week suggests that although it might not be politically correct to admit, our leaders certainly do recognize the value of God's word in government. We will all be better off for it."

30. According to the defendant Saccone, "it is time well spent for all our leaders to acknowledge and reflect upon this book [the Bible] in times of trouble in our country."

31. "House Resolution 535 serves as a reminder that we must look to our faith in God and the Holy Scripture," concludes the defendant Saccone.

32. Other sponsors of H.R. 535 have also publicly acknowledged the intent to endorse the religion of the Bible, including Representative Jerry Stern, who stated that "any year or every year would be a good choice to recognize the value of the Bible."

33. Representative Stern further has attempted to justify H.R. 535 on the grounds that

"our nation was founded on Judeo-Christian values."

34. Representative Stern also denies that the Establishment Clause of the United States Constitution is even applicable to the State of Pennsylvania.

35. According to Representative Stern, H.R. 535 is not objectionable for its endorsement of Christianity because the First Amendment supposedly does not apply to the states, including Pennsylvania.

36. As a matter of law, through incorporation under the Fourteenth Amendment, however, the states, including the State of Pennsylvania, are subject to the requirements of the Establishment Clause, notwithstanding the contrary opinions of individual members of the Pennsylvania House of Representatives.

37. The Establishment Clause prohibits governmental endorsement of religion, even on a majoritarian basis voted upon by elected politicians; the Establishment Clause protects the liberty of conscience of minorities, including the consciences of nonbelievers and nonreligious persons, who constitute at least 15% of the United States and Pennsylvania populations.

38. The plaintiff, FFREF, includes such members who are residents of Pennsylvania and who are nonbelievers opposed to government endorsement of religion.

39. The self-executing proscriptions of the Establishment Clause are not contingent upon the votes of politicians as to whether to obey the Constitution.

40. H.R. 535 violates the Constitution by expressly giving the government's endorsement to religion, and not just religion in general, but specifically to the Judeo-Christian principles of the Bible.

41. The publication and distribution of H.R. 535 diminishes the civil and political standing of nonbelievers and nonChristian Americans and constitutes governmental establishment of an official state religion.

42. University of Pennsylvania Political Science Professor Rogers Smith has noted the significance of H.R. 535, including its symbolic importance: "It does send a signal that the state Legislature of Pennsylvania thinks people ought to have faith in the Bible," which implies "that if you don't believe the Bible is a sacred text, there's something wrong with you."

43. Passage of H.R. 535 is particularly ironic in Pennsylvania, moreover, which was founded as a refuge for those seeking religious tolerance by William Penn, who famously welcomed religious dissenters and non-believers of many different persuasions.

44. H.R. 535 is a rebuke to the legacy of Penn, one of the earliest champions of freedom of conscience; this rebuke is made clear by the exhortation to all citizens and public officials to recognize "our national need to study and apply the teachings of the Holy Scriptures."

45. Jonathan Malesic, an Associate Professor of Theology at King's College, also notes that H.R. 535 "flies in the face of Pennsylvania's history."

46. Professor Malesic recognizes that Pennsylvania's initial European settlers, the Quakers, "didn't want to institute a Quaker theocracy. They wanted religious freedom. Pennsylvania was the religiously free colony. To see something like this [H.R. 535] in Pennsylvania, considering our current religious diversity and our history of religious diversity, contradicts the Quakers' intent."

47. Regardless of individual opinion on religious matters, it is historically inaccurate to declare that the United States was founded on explicitly Christian teachings -- and official government recognition of any such belief, or non-belief, is prohibited by the Establishment Clause.

48. The Establishment Clause prohibits the Pennsylvania House of Representatives, its members and officers, from telling citizens which God to recognize, or which holy book to "study," much less directing citizens to "apply its teachings;" such usurpation of individual

prerogative is no more permissible for members of the Pennsylvania House of Representatives than it would be for the House to endorse the Koran or other religious texts.

49. H.R. 535 improperly proclaims the Bible to be "the word of God," as a matter of governmental determination; the Pennsylvania House of Representatives has no such authority or right to determine what is "the word of God," or if there is a "word of God," or if there is a "God."

50. H.R. 535 also incorrectly alleges that the Bible has "made a unique contribution in shaping the United States."

51. In fact, the United States was founded not on the Bible, but on a secular and Godless Constitution, which grants sovereignty not to a deity or a "holy book," but to "We the People."

52. The Constitution includes no reference to God, the Bible, the Ten Commandments or Jesus, just as there are no references to "consent of the governed," "civil liberties" or "democracy" in the Bible.

53. H.R. 535 also inaccurately credits "deeply held religious convictions springing from the Holy Scriptures" as the motivation for the early settlement of our country.

54. Jamestown, the first English-speaking colony, was settled in 1607 for purposes of trade, not religion, and fewer than half of the 102 Mayflower passengers in 1620 were pilgrims, after which the secular United States of America was founded more than a century and a half later.

55. The Year of the Bible Resolution also incorrectly claims that "Biblical teachings inspired concepts of civil government that are contained in our Declaration of Independence and the Constitution."

56. While the Christian Scriptures declare that governments are instituted under the

rule of divine authority, the Declaration of Independence is based on the anti-Biblical concept that "governments are instituted among men, deriving their just powers from the consent of the governed."

57. H.R. 535 also incorrectly claims that many of our great national leaders, among them President Washington, President Jackson, and President Lincoln have attributed overriding influence to the Bible.

58. In fact, President Washington, who seldom attended church, has been claimed by many religions, but he actually kept his private beliefs to himself; he did warn, however, that "religious controversies are always more productive of more acrimony and irreconcilable hatreds than those which spring from any other cause."

59. President Andrew Jackson, along with President Jefferson, considered that even presidential Thanksgiving proclamations violated the First Amendment.

60. The words of President Lincoln from his Second Inaugural address, inscribed at the Lincoln Memorial, astutely observe the irony that in the North and the South: "Both read the same Bible and pray to the same God, and each invokes His aid against the other." While a robust Deist, Lincoln was firmly rationalistic, and not an avowed Christian.

61. Finally, H.R. 535 erringly claims that "renewing our knowledge of and faith in God through Holy Scripture can strengthen us as a nation and a people."

62. Historical reality reveals that religion commingled in the exercise of government authority is highly divisive.

63. The Founders were well aware of the Holy Wars, and the horrors of the Inquisition, the Crusades, the 30 Years War, the 100 Years War, the fierce anti-Catholicism of the Puritans, and the persecution of various faiths in the individual colonies, etc., and they wanted no part of religion in government.

64. Modern day examples of religious violence provide further lesson as to why God and government present a dangerous mix.

65. The Bible, in short, contains violent, sexist and racist models of behavior that FFRF members find personally repugnant, and which potentially could encourage persons who rely on them to act in a manner harmful to them and others.

66. In addition to the historical inaccuracies expressed in H.R. 535, the message itself is prohibited by the Establishment Clause, which prohibits government speech endorsing religion.

67. H.R. 535 impermissibly marginalizes and implicitly disparages non-Christians and nonbelievers, including members of FFRF who are residents of Pennsylvania.

68. H.R. 535 creates a hostile environment for FFRF's Pennsylvania members, who are denied their constitutional right to an environment free of official government endorsement of religion in general, and endorsement of Christianity in particular.

69. H.R. 535 sends a message to citizens of Pennsylvania, including FFRF's resident members, that Christian beliefs are more legitimate in the eyes of the State than other systems of belief and thought, which constitute matters of individual free conscience.

70. H.R. 535 establishes an officially endorsed and preferred religion to which FFRF's members are intended to be exposed by the government, and to which they have been exposed.

71. The hostile environment created by H.R. 535 derives from governmental endorsement of an inherently religious message that is deliberately intended to emphasize and encourage the integration of Christianity into the offices of government.

72. H.R. 535, therefore, further directly and substantially harms the ability of FFRF to carry out its function of safeguarding the fundamental constitutional principle of separation

between church and state by crediting the claims of theocrats and religious revivalists.

73. H.R. 535 further gives encouragement, with governmental imprimatur, to teachings that may erode the ability to deal effectively with individual, local and state problems.

74. The defendants' actions violate the fundamental principle of the separation of church and state by impermissibly advancing, endorsing and promoting the establishment of a state religion in violation of the United States Constitution.

75. The actions of the defendants, in violating the Establishment Clause, are injurious to the interests of the plaintiff FFRF, and to its members, including persons identified above who would have standing individually to object to the defendants' endorsement of religion, based upon their past and prospective exposure to H.R. 535, which does not constitute a legitimate or appropriate legislative exercise of a secular government, and which does constitute prohibited government speech endorsing religion; private speech is not subject to the Establishment Clause, but H.R. 535 is not private speech.

76. The defendants' actions deprive FFRF's members of their constitutional rights, and the defendants having acted under color of state law, stand in violation of 42 U.S.C. §1983, while committing such violations.

WHEREFORE, the plaintiff demands judgment as follows:

A. Declaring that H.R. 535 violates the Establishment Clause of the United States Constitution and Article 1, Section 3, of the Constitution of the State of Pennsylvania;

B. Ordering the defendants to discontinue further publication and public distribution of H.R. 535, and further ordering the defendants to undertake corrective actions to publicly report the unconstitutionality of H.R. 535;

C. Declaring that public officials of the State of Pennsylvania are subject to the requirements of the Establishment Clause;

- D. Declaring that the theocratic principles of the Bible do not constitute the official, preferred, or endorsed religion of the State of Pennsylvania;
- E. Declaring that the government of the State of Pennsylvania is not Judeo-Christian;
- F. Declaring that the actions of the defendants violate 42 U.S.C. §1983;
- G. Awarding the plaintiff its costs, disbursements and attorneys' fees as allowed by law, including pursuant to 42 U.S.C. §1988; and
- H. Ordering such further relief as the Court deems just and equitable.

Dated this 22<sup>ND</sup> day of March, 2012.

/S/ Lawrence M. Otter, Esquire

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