

No. 08-472

IN THE
Supreme Court of the United States

KEN L. SALAZAR, Secretary of the Interior, *et al.*,

Petitioners,

v.

FRANK BUONO,

Respondent.

**ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**BRIEF FOR AMICI CURIAE FAITH AND ACTION, INSTITUTE
IN BASIC LIFE PRINCIPLES, INTERNATIONAL REAPERS
FOUNDATION, AND A COMMITTEE OF CONCERNED AMERICAN
CITIZENS IN SUPPORT OF PETITIONERS**

BERNARD P. REESE JR.
REESE AND REESE
979 N. Main Street
Rockford, IL 61103
(815) 968-8851

Attorney for Amici Curiae

223152



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(800) 274-3321 • (800) 359-6859

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INTEREST OF AMICI CURIAE IN THIS CASE¹

Faith and Action, Institute in Basic Life Principles, International Reapers Foundation, and a Committee of Concerned American Citizens ask why the Declaration of Independence has not been cited as controlling law in cases involving the galimatias and unconstitutional “doctrine” of “separation of church and state,” and specifically why is not the Declaration controlling law?

SUMMARY

A constitutional distinction as different as night from day exists between creating a nation and thereafter interpreting its laws. The Declaration of Independence was “created” and contains the foundational rule of law of the United States and cannot be changed. It is not ceremonial but founding law. The Declaration is not trumped by the First Amendment.

The seminal decision in *Everson v. Board of Education*, 330 U.S.1 (1947) and the subsequent opinions built on that decision are constitutionally invalid as repugnant to the Declaration of Independence. Consequently the Ninth Circuit’s reliance on that erroneous premise in ruling a war Memorial erected in 1939 in the shape of a cross

¹ No counsel for a party authored this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amici curiae*, their members, or their counsel made a monetary contribution to its preparation or submission. The parties have consented to the filing of this brief and such consents are being lodged herewith.

retroactively breaches the “establishment clause” is patently wrong and should be reversed for the proper reasons.

LET REASON REIGN

Setting aside previous opinions and a train load of rhetoric, a realistic reading of the unequivocal language utilized in the Declaration of Independence dictates the undeniable conclusion that the Declaration unconditionally recognizes God as our Creator and that God is the source of our rights and moral laws.

It is likewise indisputable that Supreme Court rulings are rejecting as unconstitutional the government’s expression of God and his moral laws, and that such opinions are therefore incompatible with the Declaration.

The logic utilized to violate the Declaration is that the Constitution is simply a freestanding independent document without a foundation of any kind and that the Declaration must be ignored when interpreting the Constitution. The consequence of this is that there are no moral truths and that there is no purpose or stated objective to our government.

In essence, for all constitutional purposes, this court has decided that the Declaration of Independence is unconstitutional.

It is time now for this court to face that issue head on and deal with it. Either this nation is to be controlled and governed by the foundational law in the Declaration

and the Constitution interpreted by its rule of law, or we have become a nation without God and dependent solely upon human reasoning. This court does not live in a vacuum and must be cognizant of what is currently going on morally in this nation, particularly among our young people and the anti-theistic teaching in our schools.

To this end amici curiae, although unable to orally argue this point, asks this court to once and for all examine the roots of the foundation of this nation which embodies the terms, “laws of nature and of nature’s God.” In light of our modern-day culture, to also carefully evaluate the disastrous consequences, which are historically documented and prophesied will occur, if the foundational law established by the Founders in the Declaration is abandoned.

The infamous *Dred Scott v. Sandford*, 60 U.S. (19 Howell.) 393 (1857) case defined “citizen” in stark violation of the Declaration of Independence in order to achieve a personal and political objective. The decision was so heinous it prompted Abraham Lincoln in his debate with Douglas to challenge the listener to a careful review and they “. . . will see what a mere wreck — mangled ruin — it makes of our once glorious Declaration.”²

After Lincoln’s election as President, he issued a proclamation on March 13, 1863 warning that the Civil War was God’s judgment; “. . . those nations only are blessed whose God is the Lord . . . [b]y His divine law,

² “Speech in Springfield, Illinois, June 26, 1857.” The Complete Works of Abraham Lincoln, vol.2, Ed. John G. Nicolay and John Hay. New York: France’s D. Tandy, 1894, 315-339.

nations like individuals are subjected to punishments and chastisements in this world, may we not justly fear that the awful calamity of civil war, which now desolate the land, may be but a punishment, inflicted upon us for our presumptuous sins . . .”³

A careful review of the fundamentals of the *Dred Scott* case and its legally errant reasoning identifies the core problem in *Everson* and its progeny reflected in the Ninth Circuit decision below.

THE DECLARATION OF INDEPENDENCE MUST CONTROL THE INTERPRETATION OF THE FIRST AMENDMENT

In drafting the Declaration of Independence, the Founders faced a daunting challenge; they were not only constructing a document giving birth to a new nation, the United States of America, but were responsible for erecting a foundation of legal principles⁴ to provide for a stable and lasting society and a system of justice. There had to be unanimous agreement. It was not a challenge for the fainthearted or indecisive because each paid a terrible price for signing that document.

³ Senator James Harlan of Iowa, whose daughter later married President Lincoln’s son Robert, introduced this Resolution in the Senate on March 2, 1863. The Resolution asked President Lincoln to proclaim a national day of prayer and fasting. The Resolution was adopted on March 3, and signed by Lincoln on March 30, one month before the fast day was observed. Source: *Collected Works of Abraham Lincoln*, edited by Roy P. Basler.

⁴ A principle is defined as a comprehensive and fundamental law.

It is incumbent to keep in mind they were not evaluating and interpreting existing law in order to render an opinion but originating a foundation for the future of a nation which document could not be amended or changed.

The Founders were tough-minded independent thinkers, extremely well read and educated. The governmental principles and the words chosen to describe those principles would require a precise definition to communicate precisely their objective of freedom and source of rights upon which the new government would be built.

The content came not only from their own discernment and experience but was studiously checked against the astute logic expressed in the writings of such men as Marcus Tullius Cicero, William Blackstone, John Locke, Richard Hooker, the Bible, and several others.

Unanimous agreement existed among the Founders that Natural Law constituted the only reliable basis for the continued existence of a stable society and system of justice. The principles of Natural Law linked the rules of right conduct with the laws of the Supreme Creator of the universe.⁵

The Founders were familiar with the political powers of the day and the authoritative rule of the King. That

⁵ The overwhelming evidence in our present culture demonstrates beyond a reasonable doubt the moral chaos resulting from the departure from the principles of the Declaration.

kind of governmental structure was anathema to their objective for the new government. The government being created by the Founders was to provide freedom for the individual and an absolute source of rights not dependent upon the “whims” of human reasoning.

The ancient writings of the astute and tough-minded Cicero resonated with the reasoning of the Founders. (Of course Cicero’s opinions cost him his head).⁶

True law is right reason in agreement with nature; it is of universal application, unchanging and everlasting; it summons to duty by its commands, and averts from wrongdoing by its prohibitions. . . It is a sin to try to alter this law, nor is it allowable to repeal any part of it, and it is impossible to abolish it entirely. We cannot be freed from its obligations by Senate or people, and we need not look outside ourselves for an expounder or interpreter of it. And there will not be different laws at Rome and at Athens, or different laws now and in the future, but one eternal and unchangeable law will be valid for all nations and at all times, and there will be one master and ruler, that is God, over us all, for he is the author of this law, it’s promulgater, and it’s enforcing judge. Whoever is disobedient is fleeing from himself

⁶ Citations to Cicero’s comments pertaining to Natural Law may be found in Levy, Natural Law in the Roman Period, in University of Notre Dame Natural Law Institute Proceedings II (1949).

and denying his human nature, and by reason of this very fact he will suffer the worst punishment. (Quoted in Ebenstein, *Great Political Thinkers*, p.133)

The “Fundamental Orders of Connecticut” written by the Rev. Thomas Hooker were adopted in 1639 as the first written constitution in modern times. They likewise were in accord with the Founders’ principles. The “Orders” were predicated on the principles recorded by Moses in the first chapter of Deuteronomy. This Constitution operated so successfully that it was adopted by Rhode Island. When the colonies became independent states, they were the only two which had constitutional documents.

It is imperative to keep in mind the Declaration is dealing with a foundational base of principles on which this nation would be built, not merely interpreting an existing document. The resulting Declaration of Independence cannot be abolished, amended, or adulterated. It can only be abolished by the people adopting a new form of government.

The conclusive and corroborative definitions utilized by the Founders set out in Blackstone’s *Commentaries on the Laws*,⁷ are only refuted by denying the existence of God.

⁷ Introduced in 1766 was invoked as an authority in the writings of James Kent, James Wilson, Fisher Amos, Joseph Story, John Adams, Henry Lawrence, Thomas Jefferson, James Madison, James Otis, etc.

Law, in its most general and comprehensive sense, signifies a rule of action; and is applied indiscriminately to all kinds of action, whether animate or inanimate, rational or irrational. Thus we say, the laws of motion, of gravitation, of optics, or mechanics, as well as the LAWS OF NATURE AND OF NATIONS. And it is that rule of action, which is prescribed by some superior, and which the inferior is bound to obey.

Man, considered as a creature, must necessarily be subject to the laws of his Creator, for he is entirely a dependent being. This will of his Maker is called the LAW OF NATURE. For as God, when He created matter, and endued it with a principle of mobility, established certain rules for the perpetual direction of that motion; so, when he created man, and endued him with free will to conduct himself in all parts of life, He laid down certain immutable laws of human nature, whereby that free will is in some degree regulated and restrained, and gave him also the faculty of reason to discover the purport of those laws.

This LAW OF NATURE, being coeval with mankind and dictated by God Himself, is of course superior in obligation to any other. It is binding over all the globe in all countries, and at all times: no human laws are of any validity, if contrary to this;. . . He has laid down only such laws as were founded in those relations of justice, that existed in the nature of things antecedent to any positive precept.

These are the eternal, immutable laws of good and evil. . . He has . . . so inseparably interwoven the laws of eternal Justice with the happiness of each individual, that the latter cannot be obtained but by observing the former . . . the doctrines thus delivered we called the revealed or divine law, and are to be found only in the Holy Scriptures . . . upon these two foundations, the law of nature and the law of revelation, depend all of human laws; that is to say no human laws should be suffered to contradict these.

Locke recorded the same truth:

The Law of Nature stands as an eternal rule to all men, legislators as well as others. The rules that they make for other men's actions must . . . be conformable to the Law of Nature, i.e. to the will of God.⁸

Richard Hooker, a favorite of Locke and the founding fathers, asserted that the Law of Nature came from the Scripture which was filled with the Laws of Nature.⁹

The Founders' writings demonstrate their conclusive adoption of the principles of Nature's Law.

⁸ John Locke, *Two Treatises*, Book II, p. 285, Chapter XI, §135

⁹ *The Works of That Learned and Judicious Divine, Mr. Richard Hooker* Vol. I pp, 148, 207, 230, 427.

All [laws], however, may be arranged in two different classes. (1) Divine. (2) Human But it should always be remembered that this law, natural or revealed, made for man or for nations, flows from the same Divine source: it is the law of God Human law must rest its authority ultimately upon the authority of that law which is Divine.¹⁰

[T]he law dictated by God Himself is, of course, superior in obligation to any other. It is binding all over the globe, in all countries, and at all times. No human laws are of any validity if contrary to this.¹¹ (Alexander Hamilton)

John Jay, first Chief Justice of the Supreme Court, said “. . . Natural law was given by the Sovereign of the universe to all mankind.”¹² Zephaniah Swift who wrote America’s first law text agreed stating: “The . . . Supreme Deity [Gave] those general and immutable laws that will regulate their operation through the

¹⁰ James Wilson, *The Works of the Honorable James Wilson*, Bird Wilson, Editor (Philadelphia: Lorenzo Press, 1804) Vol. 1, pp. 103-105, “Of the General Principles of Law and Obligation.”

¹¹ Alexander Hamilton, *The Papers of Alexander Hamilton*, Herald C. Syrett, editor (New York: Columbia University press, 1961) Vol. 1 p. 87, p. 87, Feb 23, 1775, quoting William Blackstone, *Commentaries on the Law of England*

¹² John Jay, *The Life of John Jay*, William J., Editor (New York: J& J. Harper, 1833), Vol. II, p. 385.

endless ages of eternity are denominated the laws of nature.”¹³ Samuel Adams contributed: All men are equally bound by the laws of nature, or to speak more properly, the laws of the Creator.¹⁴ Noah Webster commented that the “. . . ‘law of nature’ is a rule of conduct . . . established by the Creator...denominated in Scripture . . .”¹⁵

In accord with that careful reasoning, it is not surprising that the first sentence of the Declaration of Independence went right to the jugular vein:

When in the course of human events, it becomes necessary for one people to dissolve the political bands, which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the laws of nature and of nature’s God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impelled them to the separation.”

A single sentence introduced the most momentous event in modern history. The Declaration stated not a

¹³ Zephaniah Swift, *A System of the Laws of the State of Connecticut* (John Byrne, 1795), Vol. I, pp. 6-7.

¹⁴ Samuel Adams, *The Writings of Samuel Adams*, Harry Cushing, Editor (New York: G.P. Putnam’s Sons, 1908), Vol. IV, p. 356.

¹⁵ Hamilton, *Papers*, Vol. I p. 87, February 23, 1775, quoting from Blackstone.

theory but a fact of law rooted in truths that it declared were “self-evident”:

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness . . .

And in the last paragraph, the government appeals directly to God:

We, therefore, the Representatives of the United States of America, in general Congress assembled, appealing to the supreme judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these Colonies, solemnly publish and declare that these United Colonies are, and of a right ought to be, free and independent States, . . . and for the support of this Declaration, with a firm reliance on the protection of Divine Providence, We mutually pledge to each other our lives, our fortunes, and our sacred honor.

The eight word phrase, “the Laws of Nature and of Nature’s God” unequivocally established our value system of moral laws and principles that come from God, not man. They are to be recognized as the transcendent, universal, and unalterable moral code of the Creator God. The terms and the definition provided those terms at the time they were written are not subject to modification, interpretation, or change by the courts or government.

“Moral law” cannot be the product of the political or judicial process. If that is attempted, then all is relative. There is no right or wrong; indeed, as a matter of fact, there is no law. Cicero put it this way:

But the most foolish notion of all is the belief that everything is just which is found in the customs or laws of nations . . . What of the many deadly, the many pestilential statutes which nations put in force? They no more deserve to be called laws than the rules a band of robbers might pass in their assembly. For if ignorant and unskillful men have prescribed deadly poisons instead of healing drugs, these cannot possibly be called physicians’ prescriptions; neither in a nation can a statute of any sort be called a law, even though the nation, in spite of being a ruinous regulation has accepted it . . . (Ibid. pp134-135)

Cicero asserts that law must be measured against God’s law. Justice cannot be expected from an arbitrary law which is in violation of the principles of the laws of nature or the laws of the Creator.

If the principles of Justice were founded on the decrees of peoples, the edicts of princes, or the decisions of judges, then Justice would sanction robbery and adultery and forgery of wills, in case these acts were approved by the votes or decrees of the populace. But if so great a power belongs to the decisions and decrees of fools that the laws of Nature can be changed by their votes, then why do they not ordain that what is bad and baneful shall be considered good and salutary? Or, if a law can make Justice Injustice, can it not also made good out of bad? (Ibid. pp134-135)

The Declaration and the Constitution have been continuously recognized as one harmonious legal document. Former President John Quincy Adams in a speech delivered to the New York Historical Society on April 30, 1839 as precedent for the contention of Amici:

“The Declaration was America’s charter . . . the act [Constitution] . . . forming with it one entire system of national government . . . All this is by the Laws of Nature and of Nature’s God, which of course presuppose the existence of a God , the moral ruler of the universe in a rule of right and wrong, of just and unjust, binding upon men, preceding all institutions of human society and of government . . . now the virtue which had been infused into the Constitution of the United States, and was to give to it its vital existence, the stability and duration to which it was destined, was no other than the concretion of

those abstract principles which had been first proclaimed in the Declaration of Independence—namely, the self-evident truths of the natural and unalienable rights of man . . . always subordinate to . . . the Supreme Ruler of the universe . . . that was the platform upon which the Constitution of United States had been erected . . . consisted in its conformity to the principles proclaimed in the Declaration of Independence. . . .”¹⁶

In even more precise language echoing the fact that the Declaration is foundational, President Lincoln after reciting the provisions of the Declaration stated the same obvious conclusion:

. . . . They erected a beacon to guide their children, and their children’s children, [T]hey established these great self-evident truths that . . . their posterity might look up again to the Declaration of Independence and take courage to renew that battle which their fathers began, *so that truth and justice and mercy and all the humane and Christian virtues might not be extinguished from the land.* . . .¹⁷ (Emphasis supplied)

¹⁶ *America’s Rule of Law* by Robert C. Cannada; published, National Lawyers Association Foundation (2001).

¹⁷ Abraham Lincoln, *The Works of Abraham Lincoln: Speeches and Debates*, John H. Clifford, Editor (New York: the University Society Inc., 1908), Vol. III, pp. 126-127, August 17, 1858.

Justice Jackson of the United States Supreme Court at the Nuremberg trials in Germany against the Nazis emphatically stated that there is a higher authority than the law of man.¹⁸

An opinion of this court nearly 50 years ago expressed the same conclusion; Justice Douglas in *McGowan v. State of Maryland*, 366 U. S. 420, 81 S.Ct. 1218 (1961) stated:

The institutions of our society are founded on the belief that there is an authority higher than the authority of the State; that there is a moral law which the State is powerless to alter; that the individual possesses rights, conferred by the Creator, which government must respect. The Declaration stated the now familiar theme: 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.' And the body of the Constitution as well as the Bill of Rights enshrined those principles.

The enabling act of Hawaii in 1961 required that their Constitution must be: ". . . republican in form and in conformity with the Constitution of the United

¹⁸ It is suggested the court carefully review the evidence and arguments of the Nuremberg trial. It demonstrates the Nazis goal of capturing the media and the courts, the minds of the youth, and the attempt to destroy Christianity.

States and the principles of the Declaration of Independence . . .” [See State of Hawaii, Pub. L. No. 86-3, 73 Stat. 4 (1959)]¹⁹

The Northwest Ordinance — adopted July 13, 1787 by the United States in Congress assembled — provided in Article Third, “religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged . . .”^{20 21}

The Founders deliberately created a “two tier” governmental structure. Truncating the argument; (1) The Declaration did not create man’s rights, but simply acknowledged the truth that man’s rights and moral laws come from the Creator God; and (2) The Constitution did not create rights, but was merely the “political process,” to govern and protect those rights.

The judiciary is under oath to honor the “moral laws” of the Creator God as recognized in the Declaration as superior to human reason or any negating interpretation of the Constitution.

¹⁹ This actually applies to every state.

²⁰ It is specifically to be noted that this was adopted the same week that Congress was completing the draft of the First Amendment. The ordinance was reenacted in 1789 at the time the Bill of Rights was sent to the states for approval.

²¹ See *Meyer v. United States*, 272 U.S. 52, 174-175 (1926).

Prophesying the impending immoral cauldron into which the United States was descending by reason of decisions of this Court and the extraction of God from our society, forty-two years ago the learned and perceptive Clarence E. Manion, Dean of the University of Notre Dame law school²² in his Manion Forum of July 2, 1967 in the article “Stand up and Be Counted,” stated:

Our present day United States is neither the legal nor the logical development of what was so bravely brought forth upon this continent 191 years ago. What we now call the United States of America is traveling under an assumed name. The only connection between this Nation now and a great 1776 birth certificate is a purely sentimental attachment that serves merely to garnish the public speeches of hypocritical politicians . . . God the author of our liberty, is said to be dead . . . Today a copy of our Declaration of Independence is hard to find and rarely read when and if after it is discovered. That, too, is unfortunate, because every carefully considered sentence of this document is richly rewarding.

The Founders warned that constructing law from human reason and aborting the principles of the Declaration was actually courting the judgment of God. Lincoln asked was the Civil War God’s judgment. Do

²² See also Manion, *The Natural Law Philosophy of the Founding Fathers* in University of Notre Dame Natural Law Institute Proceedings I (1949).

today's events carry such a warning?²³ The imperative of eternity echoed in the Founders' warnings:

President Thomas Jefferson said: "I tremble for my country when I reflect that God is just: His justice cannot sleep forever."²⁴

George Mason, the father of the Bill of Rights, exclaimed: "As nations cannot be rewarded or punished in the next world, so they must be in this. By an inevitable chain of causes and effects, Providence punishes national sins by national calamities."²⁵

Speaking before the Massachusetts Legislature in 1791, Chandler Robbins declared:

"The Supreme Governor of the World rewards or punishes nations and civil communities only in this life Political bodies are but the creatures of time. They have no existence as such but in the present State; consequently, are incapable of punishments or rewards in a

²³ The Scripture sets out four warnings of God to a nation; the sword (war); famine (economic crisis and insecurity); wild beasts (violence, killings, destruction of family); disease (injuries from natural disaster, health problems, from violence).

²⁴ Thomas Jefferson, *Notes on State of Virginia* (Philadelphia: Matthew Cary, 1794), P. 237, Query XVIII.

²⁵ James Madison, *The Papers of James Madison*, Henry Gilpin, Editor (Washington: Langtree and O'Sullivan, 1840), Vol.III p. 1391, August 22, 1787.

future. We can conceive no way in which the Divine Being shall therefore manifest the purity of His nature toward such societies but by rewarding or punishing them here, according to their public conduct.²⁶

The author of *The 5000 Year Leap, Principles of Freedom 101*,²⁷ put it this way: “I believe that earlier generations in America made mistakes, but nothing comparable to the betrayal and abandonment of the present one. We must reverse this trend if we are to survive as a free nation.”

How close the United States may be to the end of its national life as we have known it, or any individual’s life, only God knows. The warning signs of moral decay, however, are all about us. In addition, we are confronted with a cloud of impending nuclear annihilation. In times past as noted in the last paragraph of the Declaration, God was the one to whom the Founders prayed in reality for protection when the nation was facing any peril or difficulty. Today , however, since the Declaration has been held unconstitutional, that option on the part of the government for protection is not permitted.

²⁶ Chandler Robbins, *A Sermon Preached before His Excellency John Hancock, Governor et.al.* (Boston: Thomas Adams, 1791), p. 32.

²⁷ 1981 by W. Cleon Skousen; published by the *National Center for Constitutional Studies*, 30th printing March 2009.

THE TERMS USED IN THE DECLARATION DO NOT CONSTITUTE A RELIGION AND ARE NOT IN CONFLICT WITH THE FIRST AMENDMENT

The judicial branch of our government has incorrectly reasoned that America's foundational principles, as used in the Declaration, are in conflict with the First Amendment and the Declaration is, therefore, unenforceable.

The courts, under the deceptive guise of "religious freedom from the interference of government" starting with *Everson*, have created an atheistic nation. God is no longer recognized by the government as man's Creator²⁸ or the source of human rights and moral law.

This approach ignores the fact that if the Declaration can be amended or is otherwise subject to change, it absolutely cannot legally or logically be the source of any "unalienable rights." The product of such legal reasoning is an "alienable or qualified right," which is no rights at all, in stark contrast to the "unalienable rights" recognized in the Declaration.

God and His laws are not a religion. The term "religion" does not appear in the Declaration which simply establishes that our government is founded on the presupposition that God exists and from God come

²⁸ Such content is denied instruction in our school system, rather we are required to teach the unscientific Marxist doctrine of evolution. By doing so we rob our young people of a hope for tomorrow.

our rights and moral laws. That presupposition under the law of non-contradiction provides the definition for the terms “religion, morality, and knowledge” used in the Northwest Ordinance of 1787.

Thus the founders established the general principle that “without religion the government of a free people cannot be maintained.” The term “religion” as used in the First Amendment is not in conflict with that founding principle of law set forth in the Declaration or the term “religion and morality” as used in the Northwest ordinance of 1787.

Again truncating the discussion, the term “religion” in the First Amendment must be constitutionally attributed the meaning intended. It applied only to the individual’s unrestricted personal right to select the faith or church of his choice, or to choose none or be an atheist if he desired. “Religion” as used in the First Amendment was not intended to and did not create a conflict with the Declaration.

To reach any other conclusion not only finds the Declaration to be unconstitutional, which the courts simply do not have the authority to do, or to set policy based upon their particular individual supposition. It clearly violates the law of non-contradiction of which the Founders were well aware.

Consequently, the government has not only the right but the responsibility to recognize God as our Creator and the absolute source of human rights.

From the Declaration in 1776 right on through the adoption of the Constitution and the subsequent amendments, the evidence clearly supports the founding principles of law contained in the Declaration; Congress approved a printing of the Bible; the use of the English Primer containing Scripture as the basis for instruction in schools; the McGuffey reader filled with God and the Scripture inundated our school classrooms to the extent that Pres. Lincoln proclaimed it was the “schoolmaster of the nation;” prayers were not ceremonial rhetoric, they were realistically to the Creator God; the display of the Ten Commandments; proclamations by the government for fasting and prayers; the recognition of God in Christmas, Easter, and Thanksgiving; crosses were placed upon military graves, and the list is endless.

On a military grave, the cross simply identifies this nation’s recognition of God as contained in its founding law in the Declaration.

The display of a cross as a military symbol on graves is a part of our culture recognizing God as authorized in the Declaration. It exemplifies the fighting spirit of America to defend its liberty and faith in God.

As of the date this brief is written, 65 years ago in 1944 a battle royal was being waged in World War II in and around Anzio, Italy. The picture of the United States military cemetery at Anzio with the hundreds of crosses of fallen Americans killed in their fight to protect our freedom, is attached in the appendix. It represents only one of dozens of military cemeteries across Europe and England displaying over 140,000 such crosses for fallen Americans.

We do not apologize to any nation for the cost of precious American lives that were expended in protecting our freedom.

CONCLUSION

The days preceding the drafting of the Declaration of Independence were sobering days. The shadow of death hung over the colonists.

Today we live in an even more sobering day. No matter how optimistic the Justices of this bench may be, there is a foreboding in the air. There is a foreboding that one can actually feel. This world is spinning toward an apex with madmen in control of awesome weapons that can create total devastation.

It is no accident this case comes to the Supreme Court for such a time as this. It is contended this court has the duty of their oath to declare that the law contained in the Declaration is constitutional and not in conflict with the First Amendment and controls its interpretation. Any case law past or present which finds to the contrary either in fact, implication, or otherwise is simply a nullity.

With that closing thought, it is extremely relevant in these days of controversy to remember the remarks of Philip Dormer Stanhope, Fourth Earl of Chesterfield, (Miscellaneous Works, volume IV, 1779) who stated:

“Let us consider that arbitrary power has seldom or never been introduced into any country at once. It must be introduced by slow

degrees, and as it were step-by-step, less the people should see it approach. The barriers and fences of the peoples' liberty must be plucked one by one, and some plausible pretenses must be found for removing or hoodwinking, one after another, those sentries who are posted by the constitution of a free country for warning the people of their danger. When these preparatory steps are once made, that people may then indeed, with regret, see slavery and arbitrary power making long strides over their land; but it will be too late to think of preventing or avoiding the impending ruin."

Amici therefore respectfully prays that the opinion of the Ninth Circuit be reversed as violating the provisions of the Declaration and, therefore, in violation of the Constitution. Further that the opinion clearly state that the Declaration of Independence is America's rule of law and to be followed in the interpretation of the Constitution or its amendments.

Respectfully submitted,

BERNARD P. REESE JR.
REESE AND REESE
979 N. Main Street
Rockford, IL 61103
(815) 968-8851

Attorney for Amici Curiae

APPENDIX

1a

APPENDIX A—CEMETARY 1



2a

APPENDIX B—CEMETARY 2

