

***Understanding the Constitution: Chapter Seven***  
**The First Amendment and Religion, Part 2**

1. According to the authors, which part of the First Amendment has given Christians more protection: the Religion Clause or the Free Speech Clause?

2. The Supreme Court case *Reynolds v. U.S. (1878)* upheld a federal law criminalizing polygamy (being married to multiple people at the same time), even though it prevented the Mormon Church from carrying out what it considered a "religious duty." On what basis did the Supreme Court uphold the law?

3. The authors, writing in 2006, asked the question: "If same-sex couples are granted a constitutional right to marry, how could the Court continue to declare polygamy to be a crime in America?" The Supreme Court legalized same-sex marriage in 2015. What argument would you make, using the precedent in *Reynolds*, that polygamy should still be illegal?

4. "Christianity is primarily a set of religious beliefs." Is this statement true or false? Use both the Bible and the Founders' understanding of religion to support your answer.

5. Several times in this chapter, the authors reference a "Darwinian" or "evolutionary" view of law versus the "Common Law" or "Biblical" view of law. What do the authors mean by this distinction? What are the differences between these two views and how do they affect the interpretation of the law?

6. The town of Federalsburg, Maryland, passes an ordinance prohibiting anyone associated with the organization Free the Fleas from speaking in the town square. What application of the First Amendment would likely make the ordinance unconstitutional?

- a) It violates the First Amendment's free exercise of religion.
- b) It restricts speech in a traditional public forum based solely on the speaker's viewpoint.
- c) It provides no alternative location for someone from Free the Fleas to speak at.

7. The town of Federalsburg rewrites its ordinance to prohibit anyone from ever speaking or distributing literature in the town square. What application of the First Amendment would likely still make the ordinance unconstitutional?

- a) It regulates speech in an unreasonable manner.
- b) It is an establishment of religion.
- c) It is an overbroad prohibition of two of the most fundamental ways of public communication, i.e. speaking and written word.

8. Frustrated, but wiser, the town of Federalsburg's attorney makes one last stab at writing an ordinance for speech in the town square. This time, the ordinance says that a person may only speak in the town square from noon to 1pm on Saturdays and Sundays, regardless of who the speaker represents or is associated with. Free the Fleas sues Federalsburg, claiming the ordinance is still unconstitutional. Free the Fleas is likely to:

- a) Lose, because the town ordinance is reasonable as to time, place and manner of restriction.
- b) Win, because the ordinance restricts Free the Fleas' freedom of speech.
- c) Lose, because the ordinance does not restrict Free the Fleas' freedom of association.

9. Which of the following statements would *not* be considered constitutionally protected speech under the First Amendment?

a) "I think your dogs is ugly!" spoken to a person walking their dog in the park.

b) "The South will rise again!" spoken at private gathering of the Sons of the Confederacy.

c) "We must immediately stop the Amish from continuing their anti-social practices, by any means necessary!" spoken at a public rally of the Anti-Amish Army (AAA) in Lancaster, Pennsylvania.

10. Read the summaries of the three cases attached to this assignment. Which of them **best** illustrates the idea that the Free Speech Clause of the First Amendment is providing protection of Christians' free exercise of religion?

a) *Booth v. Simpson County School District*

b) *Meriwether v. The Trustees of Shawnee State University*

c) *Foothill Church v. Rouillard*

## The *Nicholas Meriwether* Case

**Case Name:** *Meriwether v. The Trustees of Shawnee State University*

**Case Status:** Appeal filed to U.S. Court of Appeals for the 6th Circuit challenging lower court ruling against Professor Meriwether.

**Significance:** Whether a public university can require a teacher to contradict his core beliefs by insisting he refer to a male student with female pronouns.



**Background:** Dr. Nicholas Meriwether has spent more than two decades as a philosophy professor at Shawnee State University in southern Ohio, where he has focused his scholarship and teaching on the intersection of philosophy, ethics, religion, and political theory. During a political philosophy class he was teaching, Professor Meriwether responded to a male student’s question by saying, “Yes, sir.” Professor Meriwether responded in this fashion because he refers to all his students as “sir” or “ma’am” or by a title (Mr. or Miss, for example) followed by their last name to foster an atmosphere of seriousness and mutual respect. After the class, the student approached Professor Meriwether, stated that he was transgender, and demanded that the professor refer to him as a woman, with feminine titles and pronouns. When Meriwether did not instantly agree, the student became belligerent, circling around Meriwether and getting in his face in a threatening fashion while telling him, “Then I guess this means I can call you a c\*\*t.” Before walking away, the student promised to get Meriwether fired if he did not agree to the student’s demands.

Although Professor Meriwether offered to use any name the student preferred, the university was not willing to accept that compromise, choosing instead to force the professor to speak and act contrary to his own Christian convictions. A lower court affirmed the university’s actions, prompting Alliance Defending Freedom Attorneys to appeal the case to the U.S. Court of Appeals for the 6th Circuit.

### Key Points

- This isn’t just about a pronoun, it’s about what that pronoun means. It’s about endorsing an ideology.
- Freedom—of speech and religious exercise—includes the freedom *not* to speak messages against our core beliefs.
- Public universities shouldn’t require teachers to endorse a belief with which they disagree.

### Key Facts

- Professor Meriwether offered several ways to accommodate the student, but none of that was enough in the eyes of university administrators, who insisted he contradict his core beliefs or face punishment.
- Professor Meriwether made it clear that he would accommodate his student by not using a pronoun that now offends the student; at the same time, he can’t use a pronoun that offends his conscience.
- This was never about anything Professor Meriwether said or did; only about what the university was demanding he say. Professor Meriwether was punished because he declined to a male student’s demand to be referred to as a woman, with feminine titles and pronouns.

**The Bottom Line:** Professor Meriwether went out of his way to accommodate all his students and treat them all with respect; his university punished him because he wouldn’t contradict his core beliefs.

## The “Jesus Loves Me” Mask Case

**Case Name:** *Booth v. Simpson County School District*

**Case Status:** Complaint and motion for preliminary injunction filed at U.S. District Court for the Southern District of Mississippi on November 2, 2020.

**Significance:** Whether schools can suppress the religious speech and expression of students.



**Background:** Lydia Booth is a third-grade student at Simpson Central School and comes from a devout Christian family. Consistent with the school’s COVID-19 guidelines, Lydia has been wearing a face mask to school for the last several months, including occasionally wearing a mask with the phrase “Jesus Loves Me.” Many students have used their masks to express themselves, including wearing masks with sports team logos, university logos and the phrase “Black Lives Matter.” On October 13, Lydia was pulled aside by school administrators and forced to remove and replace her mask. Lydia’s mother, Jennifer, learned that her daughter was singled out and immediately researched the school’s policy, finding that it did not prohibit messages on masks. After Jennifer questioned these policies through social media and spoke with school officials, the school then *changed* the policy in an attempt to justify their discrimination against Lydia’s religious expression. Alliance Defending Freedom has filed a federal lawsuit against the school for violating Lydia’s First Amendment rights. Public schools cannot discriminate against students for their religious beliefs.

### Key Points

- All students have the constitutional right to express their religious beliefs, without fear of being singled out and embarrassed by school officials.
- Students’ right to religious expression doesn’t disappear when they step into school.
- Public school officials have no right to discriminate against a nine-year old for her religious expression. To do so is a gross violation of the First Amendment.

### Key Facts

- Lydia was pulled aside and singled out simply for expressing her religious views.
- The school intentionally changed its policy to discriminate against Lydia *after* her mother questioned the mask policy.
- Other students express their views on masks, including wearing masks with sports logos, university logos, and the phrase “Black Lives Matter” – but Lydia was singled out and punished for expressing her Christian faith.
- Christian students shouldn’t be censored at public schools just because district officials consider religious speech to be offensive.

**The Bottom Line:** This isn’t just about a mask – it’s about a public school picking and choosing which viewpoints are welcome in the classroom.

## The *Foothill Church* Case

**Case Name:** *Foothill Church v. Rouillard*

**Significance:** Whether the state can force churches to violate their religious beliefs by covering elective abortion in their health plans.



**Background:** On April 4, 2019, three churches filed a notice of appeal in their lawsuit challenging the California Department of Managed Health Care's mandate that forces churches to pay for elective abortions in their health plans. As revealed in e-mails that Alliance Defending Freedom attorneys who represent the churches discovered, the agency issued its mandate in response to specific demands from Planned Parenthood. Those demands asked agency officials to implement a "fix" requiring the health plans of religious organizations to include coverage for abortion, regardless of moral or conscientious objections and despite state recognition up to that point that religious groups shouldn't be subject to such requirements. The abortion giant threatened to promote its own legislative "solution" if the administrative agency didn't act, so DMHC issued its mandate in 2014. In 2014, ADF and Life Legal Defense Foundation filed formal complaints with the U.S. Department of Health and Human Services against DMHC regarding its mandate and its violation of federal conscience law. Those came on the heels of a complaint filed directly with DMHC, which responded by affirming its decision to force all plans to cover all abortions without any explanation as to how that decision squares with the Constitution and contrasting federal law.

### Key Points

- Churches should be free to peacefully operate according to their faith. They cannot do that if the government is forcing them to violate their faith.
- The State of California is forcing these churches to violate their beliefs, at the request of an ideologically driven abortion corporation.
- The Constitution protects churches from being silenced or punished by the government for adhering to biblical teachings.

### Key Facts

- The state issued this mandate in response to specific demands from Planned Parenthood.
- Federal law protects Americans' rights to decline to participate in abortion.
- No state agency has the right to force a church or anyone else to violate their deeply held beliefs by paying for abortion.
- Unelected bureaucrats are bending over backwards to please Planned Parenthood even though it has meant forcing churches to violate their deeply held beliefs about the sanctity of life by paying for abortions.
- This bullying is a new low, and it violates the Free Exercise Clause by targeting the churches' exercise of religion.

**The Bottom Line:** Churches have the constitutional right to operate according to their religious beliefs. The government has no business forcing churches to violate those beliefs.