

AMERICAN CONSTITUTIONALISM
VOLUME II: RIGHTS AND LIBERTIES
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Supplementary Material

Chapter 4: The Early National Era – Individual Rights/Religion/Establishment/Blasphemy

People v. Ruggles, 8 Johns. R. 290 (NY 1811)

On September 2, 1810, outside a tavern in Salem, New York, John Ruggles publicly declared, “Jesus Christ was a bastard, and his mother must be a whore.” He was arrested, charged with blasphemy, convicted, sentenced to three months in prison, and fined \$500. Ruggles appealed to the Supreme Court of New York.

Chief Justice James Kent’s opinion asserted that punishing people who “revile” the Christian religion is consistent with state constitutional protections forbidding establishments and guaranteeing the free exercise of religion. On what basis did he reach that conclusion? Why did Kent believe that the crime of blasphemy is “independent of any religious establishment?” Kent maintained that persons might be free to make similarly insulting remarks about other religions. Why is Christianity constitutionally special?

CHIEF JUSTICE KENT delivered the opinion of the Court.

... [W]e must intend that these words were uttered in a wanton manner, and ... with a wicked and malicious disposition, and not in a serious discussion upon any controverted point in religion. The language was blasphemous not only in a popular, but in a legal sense; for blasphemy, according to the most precise definitions, consists in maliciously reviling God, or religion, and this was reviling Christianity through its author. ...

... The authorities show that blasphemy against God, and contumelious reproaches and profane ridicule of Christ or the Holy Scriptures, (which are equally treated as blasphemy,) are offences punishable at common law, whether uttered by words or writings. ... The consequences may be less extensively pernicious in the one case than in the other, but in both instances, the reviling is still an offence, because it tends to corrupt the morals of the people, and to destroy good order. Such offences have always been considered independent of any religious establishment or the rights of the church. They are treated as affecting the essential interests of civil society.

And why should not the language contained in the indictment be still an offence with us? There is nothing in our manners or institutions which has prevented the application or the necessity of this part of the common law. We stand equally in need, now as formerly, of all that moral discipline, and of those principles of virtue, which help to bind society together. The people of this state, in common with the people of this country, profess the general doctrines of Christianity, as the rule of their faith and practice; and to scandalize the author of these doctrines is not only, in a religious point of view, extremely impious, but, even in respect to the obligations due to society, is a gross violation of decency and good order. Nothing could be more offensive to the virtuous part of the community, or more injurious to the tender morals of the young, than to declare such profanity lawful. It would go to confound all distinction between things sacred and profane. ... Things which corrupt moral sentiment, as obscene actions, prints and writings, and even gross instances of seduction, have, upon the same principle, been held indictable; and shall we form an exception in these particulars to the rest of the civilized world? No government among any of the polished nations of antiquity, and none of the institutions of modern Europe ... ever hazarded such a bold experiment upon the solidity of the public morals, as to permit with impunity, and under the sanction of their tribunals, the general religion of the community to be openly insulted and

defamed. The very idea of jurisprudence with the ancient lawgivers and philosophers, embraced the religion of the country. . . .

The free, equal, and undisturbed, enjoyment of religious opinion, whatever it may be, and free and decent discussions on any religious subject, is granted and secured; but to revile, with malicious and blasphemous contempt, the religion professed by almost the whole community, is an abuse of that right. Nor are we bound, by any expressions in the constitution, as some have strangely supposed, either not to punish at all, or to punish indiscriminately the like attacks upon the religion of *Mahomet* or of the grand *Lama*; and for this plain reason, that the case assumes that we are a Christian people, and the morality of the country is deeply ingrafted upon Christianity, and not upon the doctrines or worship of those impostors. . . . It is sufficient that the common law checks upon words and actions, dangerous to the public welfare, apply to our case, and are suited to the condition of this and every other people whose manners are refined, and whose morals have been elevated and inspired with a more enlarged benevolence, by means of the Christian religion.

Though the constitution has discarded religious establishments, it does not forbid judicial cognizance of those offences against religion and morality which have no reference to any such establishment, or to any particular form of government, but are punishable because they strike at the root of moral obligation, and weaken the security of the social ties. The object of the 38th article of the [New York] constitution, was, to “guard against spiritual oppression and intolerance,” by declaring that “the free exercise and enjoyment of religious profession and worship, without discrimination or preference, should forever thereafter be allowed within this state, to all mankind.” This declaration, (noble and magnanimous as it is, when duly understood,) never meant to withdraw religion in general, and with it the best sanctions of moral and social obligation from all consideration and notice of the law. It will be fully satisfied by a free and universal toleration, without any of the tests, disabilities, or discriminations, incident to a religious establishment. . . .

The legislative exposition of the constitution is conformable to this view of it. Christianity, in its enlarged sense, as a religion revealed and taught in the Bible, is not unknown to our law. The *statute for preventing immorality* . . . consecrates the first day of the week, as holy time, and considers the violation of it as immoral. . . . The act *concerning oaths* . . . recognizes the common law mode of administering an oath, “by laying the hand on and kissing the gospels.” Surely, then, we are bound to conclude, that wicked and malicious words, writings and actions which go to vilify those gospels, continue, as at common law, to be an offence against the public peace and safety. They are inconsistent with the reverence due to the administration of an oath, and among their other evil consequences, they tend to lessen, in the public mind, its religious sanction.