

AMERICAN CONSTITUTIONALISM
VOLUME II: RIGHTS AND LIBERTIES
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Supplementary Material

Chapter 4: The Early National Era – Individual Rights/Religion/Free Exercise/Exemptions for Religious Believers

State v. Willson, 13 S.C.L. 393 (SC 1823)

James Willson refused to fulfill his responsibility under South Carolina law to be a grand juror. He claimed jury duty violated fundamental Christian precepts. Other members of his (unknown) sect claimed similar exemptions for their legal obligation to serve as jurors. Some were granted by local trial judges, others were not. In 1823, the Constitutional Court of South Carolina agreed to settle this controversy.

The justices unanimously ruled that South Carolinians had no constitutional right to exemption from jury service on the ground that jury service was inconsistent with their religious beliefs. Justice Richardson's opinion combined secular and religious justifications. He worried that exemptions could be abused. Richardson also asserted that religious exemptions are inconsistent with Christian religious beliefs. This combination of secular and Christian justifications was quite common during the Early National Period. Are both necessary in this case? Would Justice Richardson have ruled the same way if he relied only on the secular justification for denying exemptions?

JUSTICE RICHARDSON delivered the opinion of the court:

. . . It has been said . . . that man has no window in his breast, through which we may look into his heart and discover his real sentiments. We have then, only to admit that his own scruples of conscience afford a dispensation; and the pious and the hypocritical; the candid and the deceitful are placed upon the same footing. A Quaker may, perhaps, with feelings truly conscious, object to contribute to the support of government, because a war has been declared. But once allow the objection to prevail; and the avaricious knave, profiting by the example, might avow his conscience, bleeding at every expenditure of government, so lavish as to require any contribution from his little store of precious earnings. The precedent being once set, who could distinguish in this respect, between the pious asseveration of a holy man and that of an accomplished villain?

I can foresee no limits to the impositions which might follow, under so elastic a principle. A dogged unwillingness, perverse obstinacy, or the most inhuman selfishness, might be concealed under pretended scruples of conscience.

But not to draw illustrations altogether from a general knowledge of human nature, let us turn to the positive instance which so readily occurs of the false apostle, who gave the sign of holy love but to betray, and that, at a moment when his lips were still moist from the sacramental cup, and ask if to make any exhibition of religious scruples operate as an exemption from the requisitions of the laws, would not be to publish a dispensation, not so much for the scrupulous as for those who have no scruples. Is it not to be feared that such a state of things might unfold a bright and palmy day for infidelity? For while the Demon of Atheism whispered there is no God, the Atheist himself, might exhibit very profound scruples against lending hand or purse to the government of a people, who (according to his want of creed,) worshipped strange gods, and knelt to a great unknown idol. From the desire to reconcile a well meaning body of religionists, to the hopeless inadmissibility of what they have long required, I may have extended supposed consequences unnecessarily; yet, what I have imagined, is characteristic of what would follow, were we to allow the principle required.

...

Finally, I will not conceal the hope that this unanimous decision of all the judges, may have some tendency to reconcile the community concerned, to the requisitions of the laws. Nor will I restrain the observation, that while religions differ so much in doctrine, they all agree in this, *that man is bound to do his duty in whatever situation he may be placed* by the God, whom he adores; a principle, which reconciles even the slave to his master. And further, that amidst the growing distinctions among ourselves, upon doctrinal tenets, yet there is no Christian sect which does not enforce by precepts and example, the plain moral, so often inculcated and invariably practiced in every place by *him* "who cleansed us of our foulest crimes," of a ready obedience to the laws of the country, wherever he sojourned. The covenanter will then, in common with all good men and Christians, "obey the powers that be," respect the laws which protect him, his property and character, and venerate the principles of a constitution, which, in order to render him and all others, independent of human control in religion, established no one favored form of worship; and avowing the vain pretense of dictating, human creeds, require, notwithstanding, the essential sanction of an oath, which presupposing an everlasting soul, devoted to an intelligent first cause, who is to reward and to punish, is of itself, a recognition of religion as a principle.

If there is a principle in which the Christian and moralist, the philanthropist and the patriot may join with one accord, we have it here; where the human mind is left unfettered to enforce truth or combat error; and the soul of man freed from human ties, is bound only to Almighty God.



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