



January 17, 2008

Florida Taxation and Budget
Reform Commission
c/o Allan Bense, Chairman
Holland Building
Suite 245
600 S. Calhoun Street
Tallahassee, Florida 32399-1300

Re: Proposal to amend Florida Const. Art. I, Sec. 3

Dear Chairman Bense and Members of the Commission:

I am writing on behalf of People For the American Way and our more than 78,000 Florida members and activists in opposition to the proposal to amend a portion of Article I, Section 3 of our state Constitution by repealing the prohibition on the use of public funds directly or indirectly "in aid of any church, sect, or religious denomination or in aid of any sectarian institution." This provision — part of the Declaration of Rights -- is critical to the preservation of religious liberty and the separation of church and state in Florida, and any effort to repeal it should be soundly rejected.

The no-aid provision of our Constitution as a matter of state constitutional mandate prevents the state of Florida and its political subdivisions from trampling on our citizens' freedom of conscience by forcing them to subsidize religious beliefs and institutions with taxpayer funds. It recognizes that it is no business of the government to be constructing houses of worship or funding religious education. It requires government neutrality toward religion and prevents our state government from using money to favor and promote religion generally and particular faiths specifically. Indeed, in an increasingly pluralistic state, the provision promotes religious harmony by preventing the government from creating or fostering competition for financial favors. And by ensuring that government cannot fund or subsidize religion, the no-aid provision allows both government and religion to operate independently in their own spheres, free of undue influence from the other.

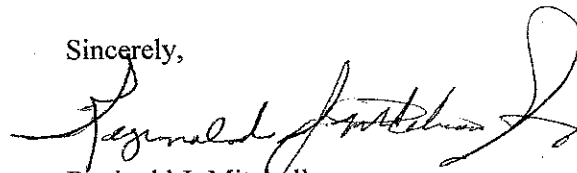
Although there is much overlap between the Establishment Clause of the federal Constitution and Article I, Section 3 of our state Constitution, the no-aid language is not found in the Establishment Clause. Retention of the no-aid language is necessary to ensure that, in Florida, freedom of conscience without government interference and coercion will remain a robust right, no matter how the U.S. Supreme Court may narrowly interpret the Establishment Clause. Indeed, as our own Supreme Court has observed, it is a well-recognized principle that, "[u]nder our federalist system of government, states may place more rigorous restraints on government intrusion than the federal charter imposes," and that "state courts and constitutions have traditionally served as the prime protectors of their citizens' basic freedoms . . . throughout most of our nation's existence." Traylor v. State, 596 So. 2d 957, 961 (Fla. 1992). There is no reason for Florida to cease to be a "prime protector" of its citizens' fundamental freedom of religion.

The no-aid provision was first incorporated into our Constitution in the mid-19th Century. See generally Bush v. Holmes, 886 So. 2d 340 (Fla. 1st DCA 2004), aff'd on other grounds, 919 So. 2d 392 (Fla. 2006). In recent years, it has been criticized by those who seek to undermine church-state separation as a so-called "Blaine Amendment" allegedly motivated by anti-Catholic bias two centuries ago. This criticism is historically unsound and overlooks the important secular reasons for prohibiting government funding of religion. Indeed, as the Court of Appeal found in Bush v. Holmes, "there is no evidence of religious bigotry relating to Florida's no-aid provision." 866 So. 2d at 351. Moreover, the no-aid provision was intentionally retained by our legislature during the most recent general revision of the Florida Constitution in 1968, and proposals to weaken it were also rejected. And as the Court of Appeal recognized, "nothing in the proceedings of the CRC or the Florida Legislature indicates any bigoted purpose in retaining the no-aid provision in the 1968 general Revision of the Florida Constitution." Id., 866 So. 2d at 351.

The importance of the no-aid provision is as vital today as the legislature found it to be 40 years ago. Indeed, it seems incomprehensible that in the 21st Century, in a world filled with sectarian rancor and strife, anyone in this state would seek to diminish our constitutionally protected freedom of conscience and to inject government into religion.

Our state Constitution wisely defines a bright line that government cannot cross by funding religion. This provision has helped ensure and foster religious diversity within our state, and it would be extremely harmful to religious freedom were this prohibition to be eliminated. Indeed, if this proposal were to be placed before the voters, it would generate a costly and divisive battle between those who seek to destroy church-state separation and those who recognize its critical importance to religious liberty in our society. We urge you in the strongest possible terms to reject this misguided proposal.

Sincerely,



Reginald J. Mitchell
Florida Legal Counsel

Cc: All Members, Florida Taxation and Budget Reform Commission