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The Constitution of the Commonwealth of Virginia states, “That all men shall be free to *profess*, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.” [Emphasis added] Today, thanks to the action of the Virginia State Police Superintendent and its endorsement by Governor Tim Kaine, Thomas Jefferson’s words are little more than ink on paper. The words of the Statute for Religious Freedom that is the foundation for the tradition of religious liberty in our nation and the precursor to the First Amendment rings hollow in the ears of those state police chaplains who have had their opinions in matters of religion diminished and their civil capacities affected simply because they refuse to silence their faith.

As is usual with the issue of religious liberty, the debate surrounding the policy and legislation before the General Assembly to correct it, including several editorials by this newspaper, is replete with misinformation, misunderstanding and confusion. Some, such as the American Civil Liberties Union (ACLU), falsely claim that prayers offered before legislative or government bodies must be nonsectarian or non-denominational. Fortunately, the First Amendment and case law regarding this issue is absolutely clear and on the side of the chaplains.

Simply put, in no case involving public prayer at government-sponsored events (with the exception being public schools) does either the U.S. Supreme Court or any Circuit court require that prayers offered be so-called “nonsectarian” or “nondenominational.” In fact, the opposite is true. In the clear words of the Supreme Court’s *Marsh v. Chambers* decision, “*In light of the history, there can be no doubt that the practice of opening legislative sessions with prayer has become part of the fabric of our society. To invoke divine guidance on a public body entrusted with making the laws is not, in these circumstances, a violation of the Establishment Clause; it is simply a tolerable acknowledgment of beliefs widely held among the people of this country.*” Recently, the Eleventh Circuit Court of Appeals in *Pelphrey v. Cobb* dismissed the argument that *Marsh* permits only “nonsectarian” prayers: “*The taxpayers argue that Marsh permits only “nonsectarian” prayers for commission meetings, but their reading is contrary to the command of Marsh that the courts are not to evaluate the content of the prayers absent evidence of exploitation. ...The court never held that the prayers in Marsh were constitutional because they were “nonsectarian.”*”

Supporters of censorship, like the ACLU, are claiming that the Fourth Circuit Court’s *Turner v. Fredericksburg* decision requires the state police’s policy of censorship. Again, this is blatantly false. While that case upheld a policy in Fredericksburg that censors prayers, it does not require that policy. In fact, in the words of Sandra Day O’Connor, who wrote the *Turner* decision, “*We need not decide whether the Establishment Clause compelled the Council to adopt their legislative prayer policy because the Establishment Clause does not absolutely dictate the form of legislative prayer.*” Again, in *Pelphrey*, the Eleventh Circuit says, “*Although it upheld the policy of the [Fredericksburg City] Council, the Fourth Circuit expressly declined to hold that Marsh required a policy of nondenominational prayers.*” Adding, “[The courts]... *have applied the precedents of the Supreme Court irrespective of the level of government involved.*”

Interestingly, in arguing against legislation reversing the state police policy in a recent *Washington Post* article, Kent Willis of the Virginia ACLU makes our case saying, “Maybe the worst part of all this is now you have the government deciding what’s a proper prayer and what’s not a proper prayer.”

I couldn’t agree more! The government should not be telling people how to pray or not to pray, and that is exactly what the state police policy does. Whether Christian, Muslim, Jewish or any other faith,

chaplains should be able to pray at public events according to their beliefs, and those prayers should not be censored by the government. The legislation that has been presented to the General Assembly this year would simply protect chaplains of every religion.

Virginians are growing tired of these attacks on public faith. Our Commonwealth and nation are founded on Judeo-Christian principles, and no amount of revisionist history or politically motivated anti-religious bigotry will erase the truth. The First Amendment and the Statute for Religious Freedom protect the right of individuals to profess their faith in public. They do not protect a crowd from *hearing* about an individual's faith.

Once again our sacred rights are being sacrificed on the altar of political correctness. Unfortunately, expunging our religious heritage from the public square seems all too in vogue in 21<sup>st</sup> century America, with elected officials and their political appointees leading the way. In the name of tolerance, public faith is not tolerated. While we would hope that Virginia's rich heritage of freedom would insulate us from such discrimination, recent history proves this not to be the case.