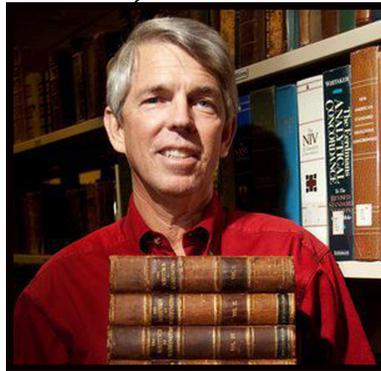


## The Language of Liberty Series



### Expatriation, Conscience, and a Worthless Oath of Office



*By David Barton, Guest Columnist*

After Mississippi Governor Phil Bryant signed a law protecting religious conscience, [1] and North Carolina Governor Pat McCrory signed a law limiting bathroom use to biological sex, [2] Governor Andrew Cuomo of New York issued executive orders banning all non-essential travel to the two states. [3] Cuomo's sought to show solidarity with the LGBT agenda but both of his acts were direct violations of specific constitutional protections in state and federal constitutions.

The first right Cuomo abridged was the constitutional right of expatriation – the right to move freely between states. This right was rooted, as were all other inalienable rights, in the natural law, which meant that they were seen as coming directly from God and thus were never to be regulated or infringed by government. As Constitution signer John Dickinson affirmed, an inalienable right is one “which God gave to you and which no inferior power has a right to take away.” [4] He explained:

*“We claim them [these rights] from a higher Source – from the King of kings, and Lord of all the earth. They are not annexed to us by parchments and seals. They are created in us by the decrees of Providence, which establish the laws of our nature. They are born with us; exist with us; and cannot be taken from us by any human power.” [5]*

Numerous other Founders said the same, including John Adams, [6] Alexander Hamilton, [7] Samuel Adams, [8] and Thomas Jefferson. [9] Because expatriation (the right to move freely and without interference between states) was one of the specific natural rights beyond government

regulation, it was therefore protected in various state constitutions, [10] in the Articles of Confederation, [11] and in the U. S. Constitution through the Privileges and Immunities Clause. [12] This right has been upheld in numerous rulings by the Supreme Court up to the current time, [13] but Cuomo disdains it.

The other inalienable right Cuomo openly repudiated was that of religious conscience – the longest-protected of American civil rights. Explicit protection for this was established long before the Constitution incorporated it, beginning with Rhode Island (1640), Maryland (1649), New Jersey (1664), Carolina (1665), and so forth. This right prevented government from forcing persons of faith to participate in activities that violated their religious convictions. The Founding Fathers strongly affirmed this to be the most precious and sacred of all our many constitutional and civil rights. For example:

*"No provision in our Constitution ought to be dearer to man than that which protects the rights of conscience. [14] Our rulers can have no authority over such natural rights, only as we have submitted to them. The rights of conscience we never submitted. [15] It is inconsistent with the spirit of our laws and Constitution to force tender consciences."* [16] THOMAS JEFFERSON

*"Government is instituted to protect property of every sort. . . . Conscience is the most sacred of all property. [17] The religion then of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. This right is in its nature an unalienable right."* [18] JAMES MADISON

Many other Founders affirmed the same, as did state constitutions across the subsequent two centuries.

Today, this longest-protected of all of America's civil rights is now the most frequently attacked one. Christian bakers, florists, photographers, sportscasters, professors, and others have been fired, fined, or jailed simply for refusing to personally affirm or participate in homosexual nuptials – something their religious conscience says is wrong for them.

For example, the Washington State constitution explicitly provides that: *"Absolute freedom of conscience in all matters of religious sentiment, belief, and worship shall be guaranteed to every individual; and no one shall be molested or disturbed in person, or property, on account of religion."* [19] But the constitutional protection for this "absolute" freedom was insufficient to prevent the state from punishing florist Barronelle Stutzman for declining to personally take part in a wedding that was anathema to her own sincerely-held religious convictions. [20] Similarly explicit clauses in other

state constitutions have also failed to safeguard citizens in Oregon, [21] New Mexico, [22] Colorado, [23] Kentucky, [24] New York, [25] California, [26] Georgia, [27] Maryland, [28] Iowa, [29] and elsewhere.

The inalienable right to religious conscience seems to be the right that political leaders today are the most eager to abrogate, including Governor Cuomo. In fact, the constitution of New York provides explicit protection for the rights of religious conscience, [30] but he seeks to punish those in other states who do what his own state constitution demands.

Our constitutions provide explicit protection for the inalienable rights of expatriation and religious conscience. Governor Cuomo took an oath to uphold the constitution of his state and of the United States. He has miserably failed to do either.

*David Barton, founder of Wallbuilders, is the author of numerous best-selling books, and is an expert in historical and constitutional issues. He serves as a consultant to state and federal legislators, has participated in several cases at the Supreme Court, is involved in the development of the History/Social Studies standards for states such as Texas and California, and has helped produce history textbooks now used in schools across the nation. Barton addresses well over 400 groups each year. His work has merited numerous national and international [awards](#). Read more at [Wallbuilders.com](#)*

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