

Foundation for Moral Law

ONE DEXTER AVENUE
MONTGOMERY, ALABAMA 36104
PH: 334.262.1245 • FAX: 334.262.1708
www.morallaw.org

Roy S. Moore
Founder and President Emeritus

Kayla Moore
President

Col. John Eidsmoe
Senior Counsel and Resident
Scholar

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DON'T QUARANTINE OUR CONSTITUTION OR OUR RELIGIOUS LIBERTY

It is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of citizens, and one of the noblest characteristics of the late Revolution.... We revere this lesson too much, soon to forget it.

James Madison, *A Memorial and Remonstrance*, 1785, Works 1:163

Our Nation faces a trying time as we fight to restrain the spread of coronavirus. Businesses are closed, travel is restricted, and in some states, churches no longer have assemblies.

We at the Foundation for Moral Law have been asked to address concerns of pastors, churches, and other individuals about recent restrictions by state and local authorities on their activities.

While we are certainly sensitive to public concerns for the safety and welfare of our fellow man, we too share concerns for the loss of freedom and liberty we enjoy under the United States Constitution by such regulation.

State and local authorities have issued a variety of restrictions and mandates which appear to have no common design or purpose.

For example,

In Dallas County, Texas Judge Clay Jenkins, in conjunction with the Dallas County Commissioners, issued an amended order requiring all persons living within Dallas County to “shelter at their place of residence” and may leave their residences “only for Essential Activities, or to provide or perform Essential Governmental Functions or to operate Essential Businesses....” “Essential

Activities” are defined as those which are “essential to their health and safety,” to “obtain necessary services or supplies,” to “engage in outdoor activity” including “walking, biking, hiking, or running,” to perform work for an “Essential Business,” or to “care for a family member or pet.” “Essential Retail” includes “grocery stores, warehouse stores, big-box stores, bodegas, liquor stores, gas stations and convenience stores....” Church services do not qualify; “Religious and worship services may only be provided by video and teleconference.” But how does one livestream the sacraments? Apparently according to the Dallas County edict, the right to buy liquor is more important than the right to worship God!

And here in Alabama, the Governor has issued an executive order prohibiting gatherings in public of more than 25 persons,

“All non work related gatherings of 25 or more persons, or non work related gatherings of any size that cannot maintain a consistent six-foot distance between persons are prohibited.”

Obviously, church gatherings are prohibited, while at the same time abortion clinics remain open, declared as essential businesses by the Alabama Department of Public Health.

Taking a different approach, Texas Governor Gregg Abbott issued an executive order closing schools, restaurants, and gyms, and limiting people at gatherings that did not include churches. Asked at a town meeting why churches were not included, he wisely responded, **“There was nothing specific in the executive order about churches because there is freedom of religion here in the United States of America.”** And Texas Attorney General Ken Paxton has ordered abortion clinics to halt abortions amid the coronavirus epidemic.

The Governor of New Mexico has effectively imposed a quarantine, requiring anyone traveling into the state to “self-isolate” for 14 days and self-monitor for symptoms including fever, cough, or shortness of breath.

And the list goes on and on.

These restrictions raise serious constitutional issues. Health and safety are important, but so are our liberties. As guardians of the most basic liberty of all—the right to worship God—church leaders and a Christian legal foundation like

ours have a special duty to warn against all infringements, even in a public health crisis, perhaps especially in a public health crisis because at such times civil and religious liberties often seem unimportant.

Quarantines are of special concern because they severely restrict individual liberties in many ways and because they often, as in New Mexico, are applied to persons who show no evidence whatsoever of carrying the coronavirus. Depending on how a quarantine is conducted, healthy persons could be placed in close proximity to infected persons for lengthy periods of time. While 10 or more individuals are restricted in some locations here in Alabama (Jefferson County) thousands flock to giant food stores to purchase food items for which they have greater need due to restaurant closings.

According to Black's Law Dictionary 6th Ed 1990, the modern practice of quarantine may have begun as early as 1484 at Venice when ships, coming from places where contagious or infectious diseases were prevalent, were detained by authorities in the harbor of their port or destination or at some distant location for a period of time to protect the public.

The practice of quarantine grew to the isolation or confinement of persons afflicted with a contagious disease or even exposed to an infectious disease, to prevent intercourse between them and others in the community and is today a recognized practice throughout the world.

However, with the coronavirus, quarantine has been expanded to a new dimension to include individuals who appear healthy and where no proof of exposure to an infection has been shown. When large numbers of individuals who are not sick nor have been exposed to an infectious disease are restricted from gathering in churches, it's not only about quarantine, it is about the loss of religious liberty.

When abortion clinics are allowed to continue to take innocent life, but churches can't assemble to pray for thousands of babies who die each day in our Country, we should take alarm!

Likewise, when church gatherings are prohibited, but gatherings at food stores are allowed, the ultimate inference must be that in the eyes of our government material items are more important than spiritual needs. Our Lord

instructs us that, “Man shall not live by bread alone, but by every word that proceedeth out of the mouth of God.”

In His sermon on the mount, Jesus said, “Take no thought for your life, what ye shall eat, or what ye shall drink; nor yet for the body, what ye shall put on. Is not the life more than meat, and the body than raiment?”

In truth, we need God more than the material things of life especially in times of crisis.

During the bubonic plague in 1665 the Church of England gave the following prayer which should be a guide for us in these perilous times:

*A Form of Common Prayer, Together With an Order of Fasting,
For The Averting of God's Heavy Visitation Upon Many Places
of this Realm, London, 1665.*

O Most gracious God, Father of Mercies, and of our Lord Jesus Christ, look down upon us, we beseech thee, in much pity, and compassion, and behold **our great misery and trouble.**

For there is wrath gone out against us, and **the Plague is begun.** That dreadful Arrow of thine sticks fast in our flesh; and the Venime thereof fires our bloud, and drinks up our spirits; And shouldest thou suffer it to bring us all to the Dust of Death, yet must we still acknowledge, that Righteous art thou, O Lord, and just are thy judgements. For our Transgressions multiplied against thee, as the sand on the sea shore, might justly bring over us a Deluge of thy Wrath. The cry of our sins, that hath pierc't the very Heavens, might well return with showers of Vengeance upon our Heads. **While our Earth is defiled under the Inhabitants thereof, what wonder, if thou commandest an evil Angel to pour out his Vial into our Air, to fill it with Infection, and the noisome Pestilence, and so to turn the very breath of our Life into the savour of Death unto us all!**

But yet we beseech thee, O our God, forget not thou to be gracious: neither shut thou up thy loving kindness in

Displeasure. For his sake, who himself took our Infirmities, and bare our Sicknesses, have mercy upon us, and say to the destroying Angel, It is enough. O let that blood of sprinkling, which speaks better things than that of Abel, be upon the Lintel, and the two side-posts in all our Dwellings, that the Destroyer may pass by. Let the sweet Odour of thy Blessed Son's all-sufficient Sacrifice, and Intercession (infinitely more prevalent than the typical Incense of Aaron) interpose between the Living and the Dead, and be our full and present Atonement, ever acceptable with thee, **that the Plague may be stayed.**

O let us live, and we will praise thy Name; and these thy Judgements shall teach us to look every Man into the plague of his own Heart: that being cleansed from all our sins, we may serve thee with pure hearts all our days, perfecting holiness in thy Fear, till we come at last, where there is no more Sickness, nor Death, through thy tender Mercies in him alone, who is our Life, and our Health, and our Salvation, Jesus Christ, our ever blessed Saviour, and Redeemer, Amen. (emphasis added)

Nor is there any record that the King closed church services or restricted religious gatherings during such perilous times!

But what about Law?

The First Amendment is very clear in its admonition that, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..."

In his Memorial cited above, Madison begins by defining the term "religion" used in the First Amendment. Religion was defined as the "duty which we owe to our Creator, and the manner of discharging it..." If that definition is placed in the First Amendment, it is quite clear that no federal authority, and for that matter no subordinate authority, can interfere with the duty we owe to God and

how we discharge that duty, because there is a Creator God as recognized in organic law, the Declaration of Independence.

Madison went further in his Memorial to state that that “duty” was “precedent both in order of time and degree of obligation to the claims of civil society” and, in fact, religion was “wholly exempt from its cognizance.”

In other words, plain and simple, no government can interfere with our duty to worship God. We are commanded to obey civil government (Romans 13:1-7), and when officials prohibited the apostles from preaching, they responded that “We ought to obey God rather than men” (Acts 5:29). Certainly, public officials have a duty to act in emergencies to protect public health and safety, but they must balance that duty against their duty to uphold the Constitution and respect our God-given rights of free exercise of religion.

Quite simply, it is not for the government to dictate when or even if the church of God will hold services. Churches may choose to continue meeting in the midst of an epidemic or choose not to meet; the decision is for the church, the pastor, and his congregation.

The Tenth Amendment to the Constitution states,

“The power not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.”

Obviously, there are powers which neither the Federal government nor State government can interfere with, one of which is the power over our right to worship God according to the dictates of our conscience.

Some churches have decided to livestream the message, prayers, and even special music, but such process can never be a full substitute for gathering to worship, administering the sacraments, laying on of hands for healing, or fulfilling the admonition of Hebrews 10:24-25, which exhorts us to forsake not the “assembling of ourselves together”...“exhorting one another...”

God is real, and He really does answer prayer! Assembling together to pray for the health and safety of our community, our state, our nation, and our world is a

vital public service and part of our duty as Christians. We must not neglect that duty.

History shows that governments are quick to impose restrictions during emergencies but often slow to remove the restrictions when the emergency has passed, and that even when restrictions are lifted, the precedent for imposing restrictions remains. As our 1st President George Washington explained in his Farewell Address, the abuse of power always leads to evil. “The precedent (of abuse) must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.” In other words, while prohibiting church assemblies may seem like a good idea to stop the spread of a virus, this abuse of power will always lead to a permanent evil.

In the words of President Ronald Reagan,

Freedom is a fragile thing and is never more than one generation away from extinction. It is not ours by inheritance; it must be fought for and defended constantly by each generation, for it comes only once to a people. Those who have known freedom and then lost it have never known it again.

As Martin Luther wrote in “Secular Authority: To What Extent It Should Be Obeyed” (1523), “...these two kingdoms [church and state] must be sharply distinguished, and both be permitted to remain; the one to produce piety, the other to bring about external peace and prevent evil deeds; neither is sufficient in the world without the other.” The functions of church and state are different but not incompatible. In a crisis like this, each kingdom should work for the glory of God, the edification of man, and the preservation of sacred human life.

Above all, let us remember that God is in control, and all things move and breathe by His command. Let us pray to Him for deliverance and trust that in His power we will triumph.

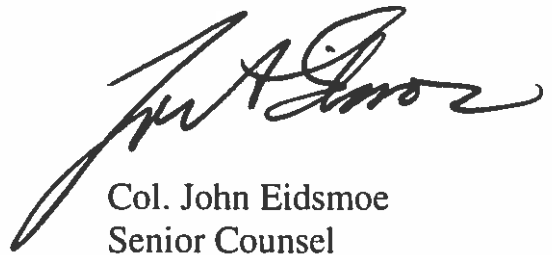
In conclusion, the **order of the Governor which effectively stops voluntary church assembly to worship God, our true sustainer and redeemer, is the ultimate violation of church and state separation, and a clear abuse of power as well as a violation of the United States Constitution.**

Those who have questions or concerns are welcome to contact the Foundation for Moral Law, (334) 262-1245, info@morallaw.org.

Sincerely,



Roy S. Moore
Chief Justice (Retired)
Supreme Court of
Alabama



Col. John Eidsmoe
Senior Counsel
Foundation for
Moral Law



Kayla Moore
President
Foundation for
Moral Law