



January 9, 2017

The Honorable Chuck Grassley
Chairman
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

On behalf of Americans United for Separation of Church and State, representing members and supporters in all 50 states and the District of Columbia, we write to voice our strong opposition to the confirmation of Sen. Jeff Sessions as Attorney General.

Our opposition is based on actions Sen. Sessions has taken and statements he has made throughout his career that contravene the dearly held constitutional guarantee of religious freedom.

Lack of Respect for the Constitutional Protections for Religious Freedom

The separation of church and state guarantees religious freedom by allowing everyone to freely choose their beliefs without government intrusion. The government may not tax its people to fund religion, nor may it promote one religion over another or religion over non-religion. This is the foundation of religious freedom in our country and protects the integrity of both religion and the government.

Sen. Sessions, however, has claimed the “wall of separation” is “not constitutional and is not historical.”¹

This disquieting view is reflected in his support for prayers at public schools² and by a judge in the courtroom,³ as well as his support for the government display of the Christian cross⁴ and the Ten Commandments,⁵ all of which violate the Establishment Clause of the First Amendment of the U.S. Constitution.

¹ Religious Liberty Protection Act: Hearing on S. 2148 Before the Senate Comm. On the Judiciary, 105th Cong. 40 ([Statement](#) of Sen. Sessions).

² *E.g.*, Sen. Sessions, [Floor Statement](#) (June 26, 2002).

³ *See Alabama ex rel. Fob James & Jeff Sessions v. ACLU of Ala.*, 711 So. 2d 952 (1998) (filing lawsuit while Alabama Attorney General claiming that judge’s practice of praying and displaying Ten Commandments in courtroom was constitutional).

⁴ Bill to preserve the Mt. Soledad Veterans Memorial, S. 3683, 109th Cong. (enacted as Pub. L. No. 109-272). The cross is the preeminent symbol of Christianity and it is not a universal symbol used by other faiths, like Judaism, or by those who are non-believers. Nonetheless, the bill’s findings state that there are many veterans’ memorials with crosses. This is [incorrect](#). The cross does not represent all members of the Armed Forces; indeed, almost one-third of members of the Armed Forces [are non-Christians](#).

⁵ *E.g.*, S. Con. Res. 13, 105th Cong. (1997).

Bias Against Muslims and Support for Anti-Muslim Groups

The United States has a proud history of religious liberty and of providing safe harbor for members of communities fleeing persecution and seeking a better life. Sen. Sessions has made statements that demean this proud tradition.

For example, Sen. Sessions opposed legislation that supported barring religious litmus tests for people entering the country. He argued that the government should pick and choose among religions, explaining he believed the provision would be a move to prohibit “favor[ing] or disfavor[ing] any interpretation of a religion” or favoring a “moderate” religious leader over a “radical” one.⁶

In addition, Sen. Sessions has suggested that Muslims follow “an ideology that is dangerous”⁷ and has spoken to and received awards from notorious anti-Muslim groups that have flamed anti-Muslim bigotry.⁸

Sen. Sessions has demonstrated that he believes the government should prefer some religions over others and that Muslims can be singled out for disparate treatment and aversion. The Attorney General, however, should believe that all people should be treated equally regardless of religion.

Support for a Religious Test

Sen. Sessions’s statements indicate that he thinks belief in God is prerequisite to understanding the truth, telling the truth, and making legal judgments.

He criticized then-nominee for the Supreme Court, Sonia Sotomayor, who is Catholic, suggesting that because he believed she is not religious, she could not see objective truth. He said, “If you . . . don’t believe in a higher being, maybe you don’t believe there is any truth.”⁹ He also rebuked then-Chairman of the Judiciary Committee, Patrick Leahy because he swore in witnesses without requiring them to say “So help me, God.” Sen. Sessions remarked, “Ninety-five percent of the people believe in God. An invocation of His name, in conjunction with the seriousness of telling the truth, has an importance beyond mere legal requirement.”¹⁰

In these statements, Sen. Sessions has effectively argued for a religious test for judges and those who testify. Article VI of the Constitution, however, explicitly forbids this.

⁶ [Press release](#), Sen. Sessions, Sessions Delivers Remarks In Opposition To Global “Right To Migrate” Amendment (Dec. 10, 2015).

⁷ Sam Kestenbaum, [Trump’s Muslim Ban Has an Advocate in Attorney General Pick Jeff Sessions](#), Forward, Nov. 18, 2016.

⁸ Miranda Blue, [Jeff Sessions and the Extreme Anti-Immigrant, Anti-Muslim Lobby](#), Right Wing Watch, Jan. 4, 2017.

⁹ Susan Beck, [Jones Day Panel on Judiciary Plays to Republican Crowd](#), Nat’l Law J., July 20, 2016.

¹⁰ [Senator Demands Restoration of “So Help Me God” Oath](#), Church & State (Sept. 2001). Close to 25% of the Americans who have [no religious affiliation](#) and some religions, including some Christian denominations, forbid oaths.

Use of Religion as an Excuse to Harm Others

Sen. Sessions has co-sponsored two bills that were aimed at sanctioning discrimination against LGBTQ people in the name of religion.

The deceptively named First Amendment Defense Act¹¹ would allow individuals, government employees, government-funded employees, and businesses to cite religion as an excuse to ignore all laws that recognize and protect same-sex couples. And, the Child Welfare Provider Inclusion Act¹² would allow child welfare service providers to refuse to provide any service that violates their religious beliefs—even if they get federal funding—regardless of the best interest of the child.

These two bills are troubling because they would allow federal employees to refuse to serve all citizens equally and federally funded social service providers to discriminate, under the guise of religious freedom. As enshrined in the Constitution, however, religious freedom guarantees the freedom to believe according to the dictates of one's conscience, and to practice that faith—but it does not allow anyone to ignore laws that protect others or to take away the rights of others even if motivated by religious beliefs.

* * *

For these reasons, Americans United opposes the confirmation of Sen. Sessions as Attorney General. Please contact Maggie Garrett, (202) 466-3234 x. 226, garrett@au.org, or Dena Sher, (202) 466-3234 x. 281, sher@au.org, if you have questions or would like further information on our position.

Sincerely,



Maggie Garrett
Legislative Director



Dena Sher
Assistant Legislative Director

¹¹ First Amendment Defense Act, S. 1598, 114th Cong. (2015). He also co-sponsored the prior version of this legislation, the Marriage and Religious Freedom Act, S. 1808, 113th Cong. (2013).

¹² Child Welfare Provider Inclusion Act, S. 667, 114th Cong. (2015) & S. 2706, 113th Cong. (2014).