No. 24-154

IN THE

Supreme Court of the United States

CATHOLIC CHARITIES BUREAU, INC., ET AL.,

Petitioners,

v.

WISCONSIN LABOR &
INDUSTRY REVIEW COMMISSION, ET AL.,

Respondents.

On Writ of Certiorari to the Supreme Court of Wisconsin

BRIEF AMICUS CURIAE OF AMERICAN ATHEISTS INC. IN SUPPORT OF RESPONDENTS

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INTEREST OF AMICUS CURIAE[1]

American Atheists, Inc., is a national civil rights organization that works to achieve religious equality for all Americans by protecting what Thomas Jefferson called the "wall of separation" between government and religion created by the First Amendment. American Atheists strives to promote understanding of atheists through education, advocacy, and community-building; works to end the stigma associated with atheism; and fosters an environment where bigotry against our community is rejected.

To that end, American Atheists encourages its members and supporters to engage with their communities through charitable work. American Atheists also advocates for equal access to social services for atheists and the nonreligious and the rights of atheists to be free from discrimination in the workplace.

INTRODUCTION

Empathy knows no creed. Charitable work is among the highest callings to which a person can dedicate themselves. Tens of millions of Americans devote their careers to charitable work through employment by 501(c)(3) nonprofit organizations ("charities"). "Nonprofits by cities and states," Cause IQ, https://www.causeiq.com/directory/locations/ (last accessed Feb. 25, 2025). Those who do so frequently choose that career path despite the sacrifices that accompany employment in

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[1] Amicus is a non-profit corporation and has been granted 501(c)(3) status by the IRS. It has no parent company nor has it issued stock. No counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund its preparation or submission. No person other than amicus and its counsel made a monetary contribution to the preparation or submission of this brief.

the nonprofit sector. Some seek such work for religious reasons. Numerous others find motivation in basic human empathy. Catholic Charities' theory of the First Amendment's religion clauses demands that states leave certain charitable workers without the unemployment protections afforded to others doing the same work, based solely on whether their employer considers the work to be religiously motivated. They would effectively be denied this protection purely because they elected to exercise their charitable drive through employment with a religious charity. Compounding these constitutional concerns, secular charities engaging in exactly the same activities as their sectarian counterparts would be subjected to an additional administrative and financial burden solely because they do so absent a religious affiliation. In short, Catholic Charities' theory places special burdens on individuals exercising their religious beliefs while simultaneously discriminating between sectarian and nonsectarian entities; a stunning perversion of the Founders' intent in adopting the Establishment and Free Exercise Clauses of the First Amendment.

Fundamental to any legitimate interpretation of the First Amendment's religion clauses is the principle of nondiscrimination on the basis of religion. The Establishment Clause "means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or to remain away from church against his will or *force him to profess a belief or disbelief in any religion.*" *Everson v. Bd. of Educ. Of Ewing*, 330 U.S. 1, 15 (1947) (emphasis added); *see also County of Allegheny v. ACLU*, 492 U.S. 573, 604-05 (1989); *Texas Monthly, Inc. v. Bullock*, 489 U.S. 1, 11 (1989). The Establishment Clause's prohibition

means that states "cannot exclude individual Catholics, Lutherans, Mohammedans, Baptists, Jews, Methodists, Non-believers, Presbyterians, or the members of any other faith, *because of their faith, or lack of it*, from receiving the benefits of public welfare legislation." *Everson*, 330 U.S. at 16 (emphasis in original). Likewise, "at a minimum, the protections of the Free Exercise Clause pertain if the law at issue discriminates against some or all religious beliefs or regulates or prohibits conduct because it is undertaken for religious reasons." *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 532 (1993); *see also Reynolds v. United States*, 98 U.S. 145, 166 (1878) ("It is constitutional and valid as prescribing a rule of action for all those residing in the Territories, and in places over which the United States have exclusive control.") Catholic Charities asks this Court to throw these fundamental principles out the window, demanding that states treat unemployed workers differently based on whether or not they chose to work for charities that espouse—even nominally—a religious motivation for their efforts.

Catholic Charities premises this rather stunning argument on the proposition that the state is discriminating on the basis of religion by excluding houses of worship from the term "employer" in its unemployment insurance program but not other religiously motivated charities doing work that is not inherently sectarian. Contrary to CCB's contention, this rather mundane carveout by Wisconsin does not discriminate on the basis of religion. To the contrary, it stays well within the bounds of the First Amendment's religion clauses.

SUMMARY OF THE ARGUMENT

Catholic Charities asks this Court to violate the free exercise rights of millions of workers across Wisconsin and the rest of the country by excluding those individuals from a government benefit—unemployment insurance protections—solely because their work is motivated by religious beliefs. This Court has repeatedly made clear that excluding otherwise eligible beneficiaries from such a program purely on the basis of religion is constitutionally prohibited. Nevertheless, Catholic Charities seeks to have its interests placed above the free exercise rights of individual employees of charitable organizations.

Catholic Charities' theory in this case not only violates the free exercise rights of the employees of numerous charities around the country but further violates the Establishment Clause by making a tax exemption contingent solely on a profession of religious belief. The government may not use its power to tax as a means to coerce professions of religious belief. As this Court reiterated in *Kennedy*, such coercion lies at the core of the protections the Establishment Clause affords. To adopt Catholic Charities' theory would not only fly in the face of this Court's longstanding Establishment Clause jurisprudence but echoes the very violations that shocked the American colonists and prompted them to ratify the First Amendment.

ARGUMENT

Catholic Charities envisions an exemption for any charitable employer that professes some religious motivation for the work it performs. Such an outcome would violate both the Establishment Clause and the Free Exercise Clause. Nonsectarian charitable organizations would necessarily be treated less favorably

than religiously motivated organizations engaged in the same work, a violation of their right to be free of coercive pressure from the state to profess religious belief so as to not be discriminated against by having greater financial burdens placed on them. In addition, workers for religious charities would be excluded from a state program solely as a result of their decision to work for a religious employer. As Catholic Charities points out, the religion clauses of the First Amendment are not always in tension. The Establishment and Free Exercise Clauses are often complementary, *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 510 (2022) (citing *Everson*, 330 U.S. at 13, 15), and this is such case, but not in the way Catholic Charities envisions.

I. Exempting Catholic Charities and other similar organizations would violate the Free Exercise Clause.

The expanded exclusion of all religiously motivated charities from the definition of "employer" in Wisconsin's unemployment insurance program, as Catholic Charities envisions, would fly in the face of numerous decisions from this Court which make clear that excluding religious individuals from a government program, *because they are religious*, would violate the Free Exercise Clause of the First Amendment.

> The Free Exercise Clause protects religious observers against unequal treatment and subjects to the strictest scrutiny laws that target the religious for special disabilities based on their religious status. Applying that basic principle, this Court has repeatedly confirmed that denying a generally available benefit solely on account of religious identity imposes a penalty on the free exercise of

> religion that can be justified only by a state interest of the highest order.

Trinity Lutheran Church of Columbia, Inc. v. Comer, 582 U.S. 449, 458 (2017); *see also Espinoza v. Mont. Dep't of Revenue*, 591 U.S. 464, 483-84 (2020).

Catholic Charities argues that Americans employed by charities motivated by religious beliefs must be excluded from generally available programs like Wisconsin's unemployment insurance system. Nearly 10% of American workers (12,488,563) are employed by charities around the country in 2017.[2] U.S. Bureau of Labor Statistics ("BLS"), "Nonprofits: a look at national trends in establishment size and employment," Table 1 (Jan. 2024), https://www.bls.gov/opub/mlr/2024/article/nonprofits-a-look-at-national-trends-in-establishment-size-and-employment.htm (last accessed Feb. 25, 2025). The vast majority of those doing charitable work (12,325,791) do so on behalf of organizations that, at present, are not performing religious functions but, rather, charitable activities that are not inherently religious. *Id.* at Table A-3. This work may include health care, social assistance, educational services, or supporting artistic endeavors or recreational services, among many others. *Id.* at Table 3.

Were this Court to side with the petitioners, charities that already have religious motivations for their secular charitable work, like Catholic Charities, would no longer fall within the scope of programs like

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[2] Although this case directly addresses only Wisconsin's unemployment insurance program, if this Court were to adopt Catholic Charities' arguments, the outcome of this case would fundamentally alter the landscape for charitable organizations around the country, making an examination of nationwide statistics particularly relevant.

Wisconsin's unemployment insurance system. As a result, the program would exclude the employees of these charities solely because their charitable work was motivated by religious beliefs. Conversely, individuals engaging in *the same charitable work*, but who do so in the employ of entities that espouse no religious motivation, would be covered by the program. The ramifications of Catholic Charities theory would not be confined to Wisconsin and would infringe on the rights of charitable workers with the same, or aligned, religious motivations for performing charity work as their employing charity, as well as those who, due to their line of work, have little or no choice in employers.

A. Burdens on the free exercise rights of employees that share their charitable employer's sincerely held beliefs

Should Wisconsin be forced to alter its unemployment insurance system as Catholic Charities demands, workers for religious charities will find themselves excluded from the state's otherwise available program. For many of those employees, the decision to seek employment at a charity that shares their religious motivations, or that has religious motivations in alignment with their own, was itself a decision rooted in their own sincerely held beliefs. These employees will, necessarily, be put to a choice: Follow your religious convictions by working for a charity that shares your religious purposes or be eligible to receive assistance from the government. This Court has repeatedly declared this unconstitutional.

This is far from hypothetical. Among the Petitioners themselves is an organization, Barron County Developmental Services, Inc. (BCDS), that decided to affiliate with the Catholic Church in 2014. *Cath. Charities Bureau, Inc. v. State Lab. & Indus. Review*

Comm'n, 3 N.W.3d 666, 673 (2024). BCDS had been "provid[ing] job placement, job coaching, and an array of services to assist individuals with disabilities to get employment in the community" for years without religious ties. *Id.* (cleaned up). Throughout that time, employment at BCDS was open to all, regardless of faith. It undoubtedly had Catholic employees with identical motivations to Catholic Charities for engaging in their work. Other employees undoubtedly were not Catholic but nonetheless could have religious motivations aligned with those of Catholic Charities. All these BCDS's employees, despite doing *exactly the same work* they performed prior to 2014, would be excluded from Wisconsin's unemployment insurance system solely because that work was now being performed for a "religious purpose."

B. Burdens on the free exercise rights of employees whose only potential employers are religious

Also implicated by Catholic Charities' arguments are the free exercise rights of those employees whose motivations for their work are entirely disconnected from religious beliefs. In certain fields of charitable work, there are regions of the country in which religious organizations are effectively the only potential employer. Those who seek to devote their careers to health care work, refugee resettlement, or foster care and adoption, for example, will often have no option but to seek employment at a religiously affiliated charity.

According to BLS data, in 2017, nonprofit hospitals around the country employed more than 4.2 million Americans. BLS, "Nonprofits," Table A-3. In some parts of the country a person must travel more than two-and-a-half hours away in order to find a hospital without a religious affiliation. Meg Wingerter,

"Most Colorado counties lack access to aid-in-dying, abortion or gender-affirming care at hospitals," The Denver Post (Oct. 7, 2024), https://www.denverpost.com/2024/10/06/colorado-hospitals-abortion-aid-in-dying-gender-affirming-care/. Were the interpretation advocated for by Catholic Charities the rule, hospital workers in places like Durango, Colorado[3]—be they emergency room doctors, nurse practitioners, pharmacists, or administrative and support staff—would face a stark choice if they wished to continue in their line of work: go without unemployment protections or relocate hours from friends and family for work, *Id.*, solely because their current employer has a religious motivation or decides to adopt a religious affiliation in order to take advantage of a lesser tax burden.

Likewise, individuals interested in assisting refugees who have resettled or seek to resettle in the United States face a similar situation. The United States Office of Refugee Resettlement currently recognizes ten Resettlement Agencies authorized to place refugees in the United States. "Resettlement Agencies," Office of Refugee Resettlement (Mar. 14, 2024), https://acf.gov/orr/grant-funding/resettlement-agencies. Of those ten, all but three are religious organizations. *Id.* For example, Catholic Charities, Diocese of Fort Worth, Inc. ("CCFW"), is "*the* Replacement Designee for the state of Texas" for the U.S. Department of Health and Human Service's Office of Refugee Resettlement. Complaint for Declaratory and Injunctive Relief at 15, *CCFW v. U.S. Department of Health and Human Services, et al.*, No. 1:25-cv-605 (D.D.C. Mar. 3, 2025), ECF No. 1 (emphasis added). In that role, CCFW

[3] Colorado, like Wisconsin, excludes houses of worship and associated schools from the definition of the term "employment." Colo. Rev. Stat. § 8-70-140.

"operates the official Texas refugee resettlement services website, Texas Office for Refugees, and coordinates support for 29 partner agencies providing essential Refugee Resettlement Program services across the state." *Id*. Of those "partner agencies," six are chapters of Catholic Charities, three are chapters of World Church Services, at least four are non-Catholic Christian organizations, three are Muslim organizations, two are interfaith organizations, and at least one is a Catholic organization distinct from Catholic Charities. *See* "Service Providers in Texas," Texas Office for Refugees, available at https://txoffice forrefugees.org/providers/ (last accessed Mar. 4, 2025). The situation is similar for those with careers in foster care and adoption. For those who have admirably chosen these fields of work, there is often no opportunity to work except in the employ of a religious organization.

These individuals, regardless of their sincerely held beliefs, would see their interests—i.e., having the same social protections as every other worker in the state—cast aside in favor of their employers' interests solely because that interest is religious in nature. They, in essence, would be put to the same choice as the employees in Part I(A), above: Abandon your chosen profession in order to be eligible for a state program or continue in your profession but lose a state-provided benefit because the government has prioritized your employer's religious motivations over your own.

* * *

Catholic Charities, in effect, demands that the state of Wisconsin violate individual workers' free exercise rights so that Catholic Charities can escape a minimal tax burden imposed on all charities doing substantially similar work. It demands that Wisconsin, rather than drawing an *entirely legal* line between houses of

worship and charities that perform other, nonsectarian work, instead draw a line between religious charities as employers and religious employees of those charities, whose free exercise rights Catholic Charities seems to view as subservient to its own. Such a situation would be untenable under this Court's longstanding free exercise jurisprudence. Yet workers at charities around the country must, Catholic Charities argues, lose their unemployment protections solely because its work is religiously motivated and that this extreme conclusion is mandated by the Free Exercise Clause. Nothing could be further from the truth.

II. Exempting Catholic Charities and other similar organizations would violate the Establishment Clause.

In *Kennedy*, the Supreme Court expressly set aside the Establishment Clause test laid out in *Lemon v. Kurtzman*, 403 U.S. 602 (1971). *Kennedy*, 597 U.S. at 534. In its place, the Court's interpretation of the Establishment Clause should be guided "by 'reference to historical practices and understandings.'" *Kennedy*, 597 U.S. at 535. This Court's discussion of the history-and-tradition test demonstrates that the wheel need not be reinvented in every case and when existing precedent is on point; rather, it should be relied upon.

Even as it set aside the *Lemon* test, this Court reiterated that certain classes of government conduct are presumptively invalid and cited numerous Establishment Clause cases that remain good law. This includes government action that coerces religious observances or confessions of faith, *Kennedy*, 597 U.S. at 537 (citing *Zorach v. Clauson*, 343 U.S. 306, 314 (1952)), or "force[s] citizens to engage in 'a formal religious exercise,'" *Id.* (citing *Lee v. Weisman*, 505 U.S. 577, 589 (1992)). "[C]oercion along these lines was

among the foremost hallmarks of religious establishments the framers sought to prohibit when they adopted the First Amendment." *Id*. The government may not impose religious tests on employees or officers. *Torcaso v. Watkins*, 367 U.S. 488, 496 (1961). The government may not support religious instruction in school but may, under the right circumstances, accommodate the religious instruction of students by religious entities off of school grounds and free of government support, *Zorach v. Clauson*, 343 U.S. 306, 315 (1952),[4] nor impose prayers or other religious observances on students in class, *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 205 (1963), at school ceremonies, *Lee*, 505 U.S. at 599, nor at school athletic events, *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 301 (2000); *Kennedy*, 597 U.S. at 541-42. In each of these examples cited by this Court, the government action so clearly violated the Establishment Clause that historical analysis is unnecessary.

In addition to the cases that the Supreme Court specifically endorsed in *Kennedy*, historical analysis was conducted in a similar manner in *Engel v. Vitale*, 370 U.S. 421, 425-30 (1962) (examining English and

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[4] It is noteworthy that, while the Court set aside the *test* announced in *Lemon*, it did not raise any issue with the actual *holding* in *Lemon* that "providing state aid to church-related elementary and secondary schools" violated the Establishment Clause. *Lemon*, 403 U.S. at 606-07. This holding was consistent with *Illinois ex rel McCollum v. Board of Education*. 333 U.S. 203, 212 (1948). The *Kennedy* majority's favorable discussion of *Zorach*, which contrasted a permissible "released time" program with the unconstitutional program at issue in *McCollum*, shows that the outcome of *Lemon* remains valid, though the Court now takes issue with the manner in which it arrived at that conclusion. *Kennedy*, 597 U.S. at 540-42.

colonial history of state-controlled prayer practices), *Town of Greece v. Galloway*, 572 U.S. 565, 575-77 (2014) (examining legislative prayer practices since ratification of the First Amendment), *Marsh v. Chambers*, 463 U.S. 783, 786-92 (1983) (same), *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 182-85 (2012) (examining the English practice of appointing church ministers prior to the founding), and *Lynch v. Donnelly*, 465 U.S. 668, 674-77 (1984) (examining the history of ceremonial deism since the founding era). This analysis weighs heavily against Catholic Charities.

A. Existing, binding precedent directly prohibits the government from doing what Catholic Charities demands.

In *Kennedy*, this Court favorably cited the historical analysis performed in *Walz v. Tax Commission of New York*, 597 U.S. at 536, in which a New York property owner challenged the state's property tax exemption that applied to:

> real or personal property used exclusively for religious, educational or charitable purposes as defined by law and owned by any corporation or association organized or conducted exclusively for one or more of such purposes and not operating for profit.

Walz v. Tax Comm'n of New York, 397 U.S. 664, 666-667 (1970) (citing N.Y. Const. Art. 16, § 1). This Court's decision upholding the tax exemption in *Walz* turned in no small part on the fact that the exemption was granted to religious entities because they fell "within a broad class of property owned by nonprofit, quasi-public corporations which include hospitals, libraries, playgrounds, scientific, professional, historical, and

patriotic groups," all of which were exempted by New York's law. *Id.* at 672-73; *see also Texas Monthly, Inc. v. Bullock*, 489 U.S. 1, 12 (1989) ("The breadth of New York's property tax exemption was essential to our holding that it was 'not aimed at establishing, sponsoring, or supporting religion'"). This Court did not "read New York's statute as attempting to establish religion; it is simply sparing the exercise of religion from the burden of property taxation levied on private profit institutions." *Id.* at 673.

Texas Monthly, Inc. v. Bullock is another such precedent on point with the present case. 489 U.S. 1 (1989). In that case, this Court expressly built upon the analysis performed in *Walz* when it examined a Texas statute that exempted religious periodicals, and *only* religious periodicals, from the state's sales tax exemption, *Id.* at 12-15:

> [W]hen government directs a subsidy exclusively to religious organizations that is not required by the Free Exercise Clause and that either burdens nonbeneficiaries markedly or cannot reasonably be seen as removing a significant state-imposed deterrent to the free exercise of religion, as Texas has done, it provides unjustifiable awards of assistance to religious organizations and cannot but convey a message of endorsement to slighted members of the community. This is particularly true where, as here, the subsidy is targeted at writings that *promulgate* the teachings of religious faiths. It is difficult to view Texas' narrow exemption as anything but state sponsorship of religious belief, regardless of whether one adopts the perspective of beneficiaries or of uncompensated contributors.

Id. at 14-15 (emphasis in original) (internal quotation marks and citations omitted).

The historical analysis conducted in *Walz* and further explored in *Texas Monthly* renders it unnecessary to conduct the historical examination anew. Where the challenged government action is already addressed by existing precedent, and absent some glaring error identified by this Court in the prior cases, conducting the historical analysis anew would only invite the same chaotic "minefield" that the Court sought to avoid by requiring application of the history-and-tradition test. *Kennedy*, 597 U.S. at 534 (quoting *Capitol Sq. Rev. Bd. v. Pinette*, 515 U.S. 753, 768-69, n.3 (1995)).

Walz and *Texas Monthly* conclusively demonstrate that the expansion of Wisconsin's unemployment insurance program beyond houses of worship to all charities claiming religious motivations, but limited to *only* charities claiming religious motivations, as Catholic Charities' demands, would violate the fundamental meaning of the Establishment Clause. In contrast, Wisconsin's existing exclusion of houses of worship from the definition of "employer," without regard for sect, falls squarely within the scope of the historically permitted exemptions contemplated by this Court in *Walz*'s historical analysis. 397 U.S. at 676-78.

B. Catholic Charities' approach would coerce organizations to profess religious beliefs.

Even if *Walz* and *Texas Monthly* were not directly on point and rooted in an analysis of this country's history and tradition, Catholic Charities' vision of Wisconsin's unemployment insurance program would place impermissible coercive pressure on charitable organizations to profess religious beliefs as motivations for their

charitable or face increased taxation. As this Court has stated, government actions that "force citizens to engage in 'a formal religious exercise,'" *Kennedy*, 597 U.S. at 537 (citing *Lee*, 505 U.S. at 589), were "among the foremost hallmarks of religious establishments the framers sought to prohibit when they adopted the First Amendment." *Id*. The power to tax is among the most coercive tools available to the government when it seeks to modify behavior. Catholic Charities would have this Court force the states to use that power as a cudgel to force otherwise nonsectarian charities into professing a religious belief or face significant taxation.

Americans exercise their significant[5] charitable efforts by donating to, volunteering for, or devoting their careers to more than 1.5 million charities across the United States. "Table 14. Tax-Exempt Organizations, Nonexempt Charitable Trusts, and Nonexempt Split-Interest Trusts, Fiscal Year 2023," Internal Rev. Service, https://www.irs.gov/pub/irs-soi/23dbs02t14eo.xlsx (last accessed Feb. 24, 2025). Approximately one quarter of those (345,560) are religious organizations. "Directory of Nonprofits by Category," Cause IQ, https://www.causeiq.com/directory/categories-ntees/ (last accessed Feb. 24, 2025). The remaining 1.2 million charities across the United States perform their work without any official sectarian affiliation or motivation. Imposing the government's power to tax on only these charities, solely on the basis that they have not declared a religious faith, would place significant

[5] According to the National Philanthropic Trust, "Americans gave $557.16 billion in 2023." "Charitable Giving Statistics," National Philanthropic Trust, https://www.nptrust.org/philanthropic-resources/charitable-giving-statistics/ (last accessed Feb. 24, 2025).

coercive pressure on them to declare a religious belief, an act that itself has potential negative consequences. By espousing a particular faith, these organizations would alienate existing and potential beneficiaries, members, affiliates, and donors that have differing (often conflicting) faiths, or no faith.[6]

C. Founding-era history weighs heavily against Catholic Charities' arguments.

In *New York State Rifle & Pistol Association v. City of New York*, the Court was careful to distinguish between the examination of historical practices that contribute to the understanding of a right that the people *already possessed* under pre-existing legal principles on the one hand—such as the Second Amendment's right to bear arms—and historical practices that impact the interpretation of constitutional clauses that "lay down a *novel* principle." 597 U.S. 1, 20 (2022). Thus, while accepted practices that predated the adoption of the Second Amendment can be used to infer that like practices today are valid, the same cannot be said for the Establishment Clause. Both the Establishment and Free Exercise Clauses were *novel* developments in the law, adopted in direct response to, and in departure from, the status quo under English rule and the colonial governments. *Torcaso*, 367 U.S. at 492. These provisions, like the others contained in the First Amendment, "broke *new*

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[6] Atheist organizations, for example, are regularly turned away when they seek to partner with or donate to other organizations. *See* Tracey Gordon, "Atheists say cancer volunteering thwarted," Religion News Service (Oct. 3, 2011), https://religionnews.com/2011/10/03/atheist-say-cancer-volunteering-thwarted/; Kimberly Winston, "In season of giving, atheist groups' charity rebuffed," Religion News Service (Dec. 19, 2013), https://religionnews.com/2013/12/19/season-giving-atheist-groups-charity-rebuffed/.

constitutional ground in the protection it sought to afford to freedom of religion, speech, press, petition and assembly." *Id.* (emphasis added).

As the Supreme Court noted in *Everson*, the practices of established churches "shock[ed] the freedom-loving colonials into a feeling of abhorrence" and "aroused their indignation." 330 U.S. at 8-11. The colonists' objections to practices such as taxing the public to pay government-approved ministers and build and maintain churches, compelling tithes and church attendance, and other hallmarks of established churches "found expression in the First Amendment." *Id.* at 11.

By making a tax—or tax exemption—contingent on the profession of a religious belief, Catholic Charities' arguments are indistinguishable from these colonial-era practices that the Founders sought to end through the ratification of the First Amendment.

CONCLUSION

For the foregoing reasons, *amicus* respectfully requests this Court AFFIRM the judgment of the Supreme Court of Wisconsin.

Respectfully submitted,

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